



AMERICAN GOVERNMENT

NEW ENLARGED EDITION

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AMERICAN GOVERNMENT

A CONSIDERATION OF THE PROBLEMS OF DEMOCRACY

New Enlarged Edition

1932

BY

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*"It is the duty of the government to make it
easy for the people to do right, and difficult
for the people to do wrong." — W. E. Gladstone.*

ALLYN AND BACON

BOSTON	NEW YORK	CHICAGO
ATLANTA	SAN FRANCISCO	DALLAS

PRINTED IN THE UNITED STATES OF AMERICA

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Publisher's Note. Magruder's *American Government* is revised at least once a year, to bring it thoroughly up to date. The new matter is incorporated in such a way that the latest revision can be used in the classroom side by side with previous editions.

Norwood Press
J. S. Cushing Co. — Berwick & Smith Co.
Norwood, Mass., U.S.A.

5/21/41

D.S. Johnson
2000

C.C.

353

M212D

PREFACE

THE necessity of making new plates, a necessity due to the extensive use of *American Government*, has afforded opportunity for a complete revision of the book. Wherever better illustrations could be secured, these have been incorporated. Whenever a section could be made simpler, more concrete or more interesting, it has been rewritten. Further, as in the case of each previous revision, new matter has been added whenever this was advisable to bring the book up to date.

Yet the aims of the first edition of *American Government*, aims which contributed so largely to its phenomenal success, have been kept constantly in mind. These may be summed up under four heads:

First, to impress upon the pupil his responsibility, as a junior citizen, for the development of better government.

Second, to show how the state has developed from a simple organization for defense to the complex socialized society of to-day; and to make it clear that government is not operated according to preconceived theories, but is a living organism developed by the people to meet the needs resulting from changing conditions; to show, for example, that the Constitution of the United States is not a dead contract, but a living agreement which has developed with time and has adapted itself to economic and social conditions.

Third, to explain the actual operation of the National, State, and Local governments, emphasizing the functions of government without neglecting the necessary details of framework.

Fourth, to make plain the influence of the judiciary; and to present the political and social problems of to-day, such as the expanding Constitution, the expanding interstate commerce

clause, the expanding due process clauses, the expanding police powers, the expanding urban population and representation problems, taxation and progress, disarmament conferences, government laboratories and inventions, necessity of commissions, needy War Veterans, injunctions in labor disputes, the Philippine demand for independence, the Hawaiian request for Statehood, direct legislation, newer types of city government, the short ballot, immigration, prohibition, unemployment, and old age pensions.

The author has endeavored to make all important facts stand out clearly, by separating details from the main text, by explaining fully in footnotes all necessary technical terms, and by placing interesting collateral material in the questions for discussion. The text is further simplified by brief examples, outlines, diagrams, maps, and illustrations taken from all sections of the country, the details regarding each State being given in their proper setting.

SUGGESTIONS FOR TEACHERS

EACH student should be encouraged to subscribe for an inexpensive weekly magazine of political events, such as *World News*, published at Columbus, Ohio, or to secure access to one of the larger weeklies.

All students should read the Constitution of the United States (Appendix I in this volume) before studying Chapters IV–VI.

The use of a workbook is desirable. *Our Nation's Government* by Magruder and Harvey (Allyn and Bacon) was prepared as a workbook for this text.

A study of local conditions adds value to the course. For instance, students may be assigned papers on the following subjects concerning the county: history, natural resources, character of population, wealth, domestic animals, livestock products, production of crop wealth, coöperative enterprises, rural credits, markets, improvement of highways, transportation facilities, factory output, schools, public health and sanitation, churches and Sunday schools, and service and social clubs.

Invite your congressmen, State legislators, county officials, or city officials to explain their problems to your class — provided it is large enough to justify the officials' time.

Interest in your course will be stimulated if a trip to Washington, to your State capital, to your county courthouse, to the city hall, or to any nearby public institution, can be arranged.

Attention should be called to Erbe and Denny's *American Government Tests* (Allyn and Bacon) for this text. A set consists of eight tests. *Our Nation's Government* also contains objective tests. *American Civics and Government Tests for High Schools* by Magruder, Chambers, and Clinton (Public School Publishing Company) are comprehensive standardized tests for diagnostic purposes.

The American Year Book.

The New York Times. — An index to this daily is published monthly, quarterly, and annually.

The Statesman's Year-Book. — Current facts pertaining to all the governments of the world.

United States Census.

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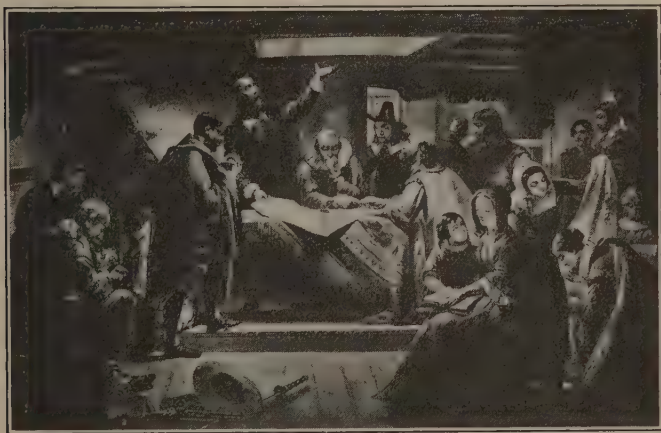
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AMERICAN GOVERNMENT

CHAPTER I

IMPORTANCE OF GOVERNMENT

Creation of Government. — The expedition, fitted out by the London Company, which made a permanent settlement at Jamestown in 1607 carried with it in a sealed box the names of the persons who were to compose the first colonial council — the



Painting by Edward Whittle.

SIGNING OF THE MAYFLOW COMPACT.

government. But when the Pilgrims found a “spot fit for situation” at Plymouth in 1620 they were without government; and, although a religious people, they realized that they would be unable to preserve order among themselves and maintain protection against the Indians without government and laws. In fact, dis-

sensions on the *Mayflower* had already impressed them with the necessity of establishing a government.¹

Accordingly, while lying off Cape Cod, the forty-one male adults signed the following agreement: "We whose names are under-written . . . doe . . . combine ourselves together into a civill body politick . . . to enact . . . such just and equall laws . . . from time to time as shall be thought most meete and convenient for ye generall good of ye Colonie, unto which we promise all due submission and obedience." Thus a new government came into existence.

Why Government Is Important. — Government is important because through coöperation we are able to maintain peace, security, justice, and public services more easily than if individuals acted singly.

Each individual may not directly assist in maintaining peace, security, justice, and public services; but every person who has money to spend contributes his part towards the support of the 2,000,000 persons who are employed to do the work. On the average, one who works contributes, directly or indirectly, to the governments of the United States, of his State, and of his local district one day's work a week.

The Cost of Government. — The expenditures of our National government are about \$4,000,000,000 a year; those of our State governments are almost \$2,000,000,000; and our counties, districts, villages, towns, and cities spend about \$6,000,000,000 a year. Thus our various governments cost us about \$12,000,000,000 a year or an average of about \$100 for each man, woman, and child in the United States. (See pages 225 and 600.)

How the Cost of Government Is Borne. — The cost of government is borne by individuals through taxation. Taxes are paid to the respective governments either directly or indirectly. If paid *directly*, a taxpayer delivers the assessed amount of taxes to the collector directly; but if paid *indirectly*, he pays it in the

¹ A government is the agency through which the purposes of a state are formulated and executed.

form of rent or in the purchase price of articles that he consumes. To illustrate, the owner of a house usually pays a State tax, county tax, township tax (or city tax if he lives in a city) directly to the officers of these governments; but in case a house is rented, although the owner of the house hands over the money to the tax collector, the renter really pays it, for the owner charges more rent than he would if he had no taxes to pay. (See page 124.)

Our local governments are supported principally by the direct general property tax. The State governments derive about half of their revenue from direct taxes and the rest from indirect taxes. But the United States government has discovered that the art of taxation, like that of picking geese, is to get the most feathers with the fewest squawks. So it picks half of its revenue from the wealthy 10 per cent of the population in the form of the direct income tax which brings no squawks from the 90 per cent. It picks the other half of the revenue principally from the poorer 90 per cent in the form of indirect taxes in such a way that they are hardly conscious of being picked.

The indirect taxes are shifted from him who pays them to him who bears the burden in this fashion: the manufacturers of such articles as cigars, cigarettes, playing cards, and oleomargarine pay taxes to the United States government and then sell these products at a price high enough to enable them to pay the tax and earn a profit. The person who uses the articles really pays the tax. (See page 124.)

About two thousand articles imported into the United States from foreign countries are also taxed by the United States. The importer pays the tax and then sells the articles at an advanced price; so the consumer is really the man who pays the tax.

Increased Cost of Government. — The cost of the National government increased from an average of \$2 per capita for the decade just before the Civil War to \$10 per capita for the decade just before the World War — fivefold. But the government

so safeguarded the citizen, promoted science, protected property, and encouraged industry that the average estimated wealth per capita during the same period increased from \$300 to \$2000¹ — nearly sevenfold. So it was easier for the people of the United States to pay an average of \$10 a person for the support of the National government before the World War than \$2 before the Civil War. Or to illustrate in another way how the prosperity of taxpayers has kept ahead of national taxes, the annual per capita cost of the National government has increased about fourfold since 1913, the first year of the national income tax. But during the same period the total net incomes upon which national income taxes are paid have increased from less than \$4,000,000,000 to about \$24,000,000,000 — sixfold.

The Benefits of Government. — Many people fail to appreciate the benefits derived from the taxes they pay; but who would go back to the trail through the forest, the ford in the river, the muddy roads and streets, the log schoolhouse, the undrained swamps, the typhoid-infested water, and all the other discomforts of former times, even if taxes were twice as high as they are now? Let us name and discuss briefly a few of the benefits of government.

(1) Government Enables Us to Be Independent of Foreign Countries. — As soon as the thirteen American colonies declared themselves independent of England they established State governments in order to gain their independence. When the separation was acknowledged by the mother country, each State was so small that it was in great danger of being seized by one of the European powers, and in order to secure their independence and have the European countries treat them as equals they were obliged to form a strong United States.

To-day, if it were not for the United States army and navy, our commerce upon the seas would be endangered by pirates and our homes and billions of dollars' worth of property in cities

¹ The average estimated wealth per capita is now about \$3000.

on navigable streams might be blown to destruction by the guns of hostile powers. No individual could protect his own property against such attacks because such protection requires the maintenance of an army and a navy which costs hundreds of millions of dollars a year. Of course nations would not destroy our property without some cause, but the cause might be an unreasonable one.



Keystone View.

FORT MACARTHUR COAST DEFENSE NEAR LOS ANGELES.

The big guns of this fort throw a ton of steel and explosives 25 miles.

(2) **Government Protects Our Property from Criminals.** — If it were not for the shèriffs, constables, and policemen, persons who are known to carry large amounts of money would never be safe; indeed persons who carry any money would be in constant danger of being robbed. Furthermore, every night one would retire with the dread of being murdered for the few pieces of silver in the house, and on getting up one would seldom find the bottle of milk which the milkman leaves at the door before daylight:

To-day if a crime is committed in your neighborhood, a policeman can be called by telephone, and if the criminal is not caught at once, news of the crime will flash to all near-by towns and cities. In some cities or thickly settled communities a thousand policemen can be notified in ten minutes. For instance, if a crime is committed in Princeton, New Jersey, the police headquarters of Trenton (ten miles away) and other near-by cities are notified. The Trenton headquarters will flash a light in the police box on each policeman's beat, and every policeman will see the signal, go to the box, and learn the nature of the crime by telephone.

(3) **Government Maintains Peace and Order.** — In our early days a fist fight was the most persuasive argument in settling a political dispute, and if the parties involved held a social position which made a fist fight unbecoming, a duel answered as well. To-day an officer is at hand to prevent a fight in any public place, and insults are commonly settled by libel or slander suits. When satisfactory courts exist to enforce the law, people of to-day frown upon those who attempt to settle their differences by physical force instead of resorting to the courts.

(4) **Government Performs Functions Which Would Be Unprofitable as Private Ventures.** — Individuals or companies would not find it profitable to perform any of the following functions in the large and accommodating manner in which our governments perform them.

(a) *Protection to Health.* — The Public Health Service is charged with preventing the importation of diseases from foreign countries or their spread from State to State.¹ It therefore operates our maritime quarantine stations. It coöperates with State and local health authorities in suppressing epidemics, making sanitary surveys, and conducting studies of public

¹ The Secretary of the Treasury, with the consent of the President, may authorize the Surgeon General of the Public Health Service to establish quarantines for preventing yellow fever, smallpox, or the plague from spreading from one State to other States.

health administration; and it conducts extensive investigation in child hygiene, industrial sanitation, and the protection of water supplies. It also makes special investigations of such diseases as tuberculosis, influenza, pneumonia, anthrax, pellagra, plague, trachoma, typhoid fever, and Rocky Mountain spotted fever; it supervises and regulates the manufacture and sale of



ELLIS ISLAND, NEW YORK.

United States Public Health Service Inspection of Immigrants.

such biologic products entering interstate commerce as viruses, vaccines, therapeutic serums, toxins, antitoxins, used in the prevention and cure of diseases of man, in order to insure their good quality; and it disseminates public health information by means of various popular and scientific publications.¹

Upon the recommendation of the Surgeon General of the Public Health Service, the President of the United States details officers to serve in consulates at Shanghai, Calcutta, Naples,

¹ These publications may be obtained by writing to the Surgeon General, United States Public Health Service, Washington, D. C.

Guayaquil, and some thirty other very important places in different parts of the world. It is the business of these highly trained officers to detect and prevent persons suffering from contagious diseases from embarking on vessels destined to the United States, and to obtain first-hand information with regard to sanitary conditions and the prevalence of disease in such ports. American consuls who are stationed in some five hundred leading cities of the world also make reports of health conditions, which reports are placed at the disposition of the Public Health Service. Where there is no medical officer, the consul also aids in preventing the embarkation of persons suffering from contagious diseases. State and city health officers throughout the United States make reports of contagious diseases direct to the Surgeon General.¹

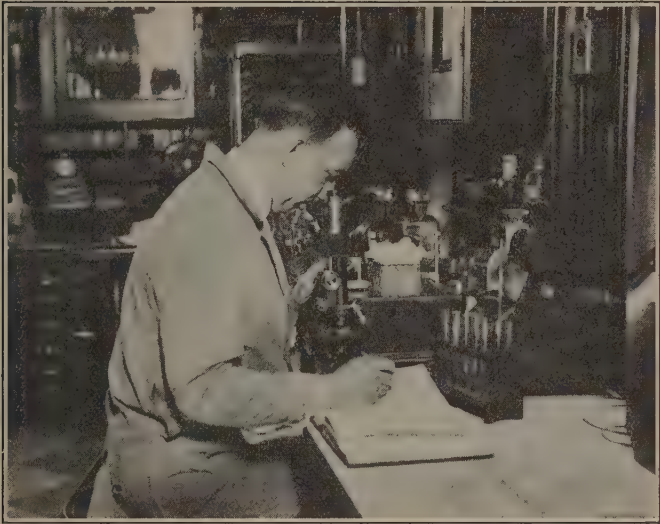
A seventeenth-century English author incidentally mentions the fact that every fourth person in a large representative audience was horribly disfigured by the smallpox. With our modern travel of persons and interchange of commodities in commerce we should never be safe from smallpox, cholera, yellow fever, and other dreaded diseases if it were not for our public health services. Should we begrudge the taxes we pay to insure us against such calamities?

States, counties, and cities also have their health departments to safeguard the health of the community. These departments educate the people in the prevention of diseases, establish quarantines, order general vaccination, and regularly inspect the water, milk, and other food supplies that are most likely to carry disease germs.

(b) *Protection to Life.* — In addition to the protection to life given by police officers and courts, many cities have building regulations limiting the height of buildings in proportion to

¹ The United States Public Health officers may be assigned to any military or naval duty the President directs; but the Army Medical Corps is responsible for the health of the fighting units on land and the Medical Corps of the Navy cares for the health of the fighting men while afloat.

the local fire protection, requiring fire escapes on high buildings, prescribing rules for sanitary plumbing and fireproof wiring, and requiring that doors to public buildings open outward. Cities also have traffic regulations, such as limiting the speed of automobiles and prescribing how they shall pass corners, and requiring railroads to have watchmen at crossings.



Ewing Galloway.

MAKING THE DAILY TEST OF CATSKILL WATER FOR THE PROTECTION OF NEW YORK'S MILLIONS.

States employ factory inspectors to see that workmen have fresh air, that boilers and elevators are in proper condition, and that dangerous machinery has safety appliances. The National government provides for the inspection of locomotives and steamboats, requires passenger vessels to have wireless equipment and life-preservers, supports wireless stations to notify vessels of storms, and maintains lighthouse and life-saving stations. Recently the United States government established

mine experiment stations to experiment with life-saving devices in mines.

(c) *Care of Poor and Helpless.* — If it were not for our State hospitals for the insane, most of our 300,000 insane persons would be at large to annoy us and even endanger our lives. The hundreds of thousands of poor who are now cared for in public institutions or by public pensions would have to beg on the streets and at our homes, or steal, or else starve. (See Chapter XXIX.)

(d) *Free Education.* — Over \$2,000,000,000 is spent annually for public free elementary and secondary education throughout the United States, or an average of nearly \$200 for each high-school pupil. The average cost in private high schools or academies, except those not conducted for profit, is fully twice that of the public high schools. From these figures it can be seen that poor parents with large families could not afford to educate their children if free schools were not provided by the government. Free libraries, art galleries, and museums are also established by governments, thus providing for all what the rich alone could otherwise afford. (See Chapter XXVIII.)

(e) *Protection to Public Morals.* — In many ways the National, State, and local governments are seeking to protect public morals. The National government prohibits the manufacture or sale of intoxicating liquors for beverage purposes or the bringing of prize-fight films or lottery tickets into any State; and it denies the use of the mails for carrying fraudulent matter. The National government has not the power to prohibit the sale and use of opium, but in its effort to limit its use as much as possible Congress has imposed a tax of \$300 a pound on this drug manufactured for smoking purposes. It also imposes a license tax upon the sale of narcotics, and can therefore regulate the legitimate sale of this commodity and prosecute persons illegally selling it.

State and city governments regulate or prohibit gambling and other recognized forms of vice. Each State maintains one or more reformatories for incorrigible boys and girls, where they

are trained for better citizenship. Cities commonly have censors to visit theaters, moving picture shows, and other such public places, to prevent immoral performances.



NEW YORK PUBLIC LIBRARY.

"A true university is a collection of books." — *Carlyle*.

(f) *The Census*. — Progress grows out of knowledge and knowledge is based on facts. The United States Census Bureau is constantly gathering facts and is therefore an important factor in progress. The census of 1930 showed that continental United States had a population of over 122,000,000, and the Census Bureau estimated that the population was increasing at the rate of one person every 23 seconds.

The decennial census enables Congress to apportion representatives in Congress among the States on the basis of population; assists it in determining our immigration policy by showing how many Mexicans, Italians, Russians, etc., are in the country; and

it shows whether Caucasians, Ethiopians, or Mongolians are increasing most rapidly in various localities of the United States.

The census shows the War Department how many adults there are of military age; the educator the number of persons in his community who cannot read and write; ¹ the school boards how



TAKING THE 1930 CENSUS.

many children will soon be of school age; employers and welfare workers how many are unemployed; the sociologist the ages at which different racial and economic groups marry, the number of children reared, and how many families own their homes; legislators whether more or fewer farmers than formerly own their homes; ² advertisers as well as the Federal Radio Commis-

¹ In the United States illiteracy is constantly declining. In 1870, 20% of persons over 10 years of age were illiterate; in 1920, 6%; and in 1930 only 4.3%. In 1930 the percentages varied from eight tenths of 1% in Iowa to 14.9% in South Carolina. There was a decrease in illiteracy percentages between 1920 and 1930 in every State.

² In 1880 only 25% of our farms were operated by tenants as compared with about 42% in 1930.

sion how many radio receiving sets there are in each locality; ¹ the economist the annual income and total wealth of the people of the States; and the health expert the number of births and the causes and ages of death.

The volumes on manufactures and agriculture are especially valuable to persons interested in these industries. For instance, if a manufacturer of corn cutters, milk cans, or poultry food wants to know where there is a demand for his products, he can learn the production of corn and the approximate number of cows and of chickens in each county in the United States.

An advertiser of razors can learn that in Detroit there are 75,178 more men than women; and an advertiser of cosmetics that there are 23,103 more women than men in Washington City, and 106,210 more women than men in Massachusetts.

All of the above facts are not collected along with the population statistics every tenth year. Some facts are collected by the Bureau of the Census every tenth year, some every fifth year, some every second year, some annually, and some at even more frequent intervals.

(g) *Aids to Commerce*. — The National government maintains lighthouses, beacons, and buoys, builds dams, digs canals, and dredges rivers and harbors. It coöperates with the States in building levees. States and counties build roads and bridges. Cities construct streets, bridges, and wharves.

(h) *Aids to Manufacturing*. — That wonderful institution, modestly called Bureau of Standards, should be called the bureau of standards and research because it has discovered so many facts that enable manufacturers to produce goods that are better or cost less. For instance, the Bureau has discovered a commercially practicable method for crystallizing corn sugar, and has discovered a process for producing the sugar known as levulose from Jerusalem artichokes. It has discovered new materials from which paper can be made commercially, and has

¹ The number of radio sets in the forty-eight States and the District of Columbia in 1930 was about twelve and a half million.

produced from corn stalks an insulating board as strong as any in use.

The Bureau's systematic search showed that calcium chloride greatly accelerates the initial hardening of concrete. The great gain of time once lost in waiting for concrete to harden now earns inestimable dividends to the building and construction industries.



P. & A.

BUREAU OF STANDARDS TESTING THE RESISTANCE OF SAFES TO FIRE. Thirty-five safes were placed in this building at different places to determine the effects of heat upon them. Then the building was set afire.

It saved \$500 daily on the one project for which it was originally sought. The studies of the effect of cement fineness on the strength of concrete, the effects of sea water on concrete structures, and the effects of alkali waters on concrete tile used in irrigation projects are other examples of valuable research. A member of Congress reported that the Bureau's technical research and advice on clays was worth to his State alone more than the entire cost of the Bureau from the beginning.

It has been estimated that the Bureau's work has saved \$15,000,000 annually to industry and the public from its brake-lining investigations, \$40,000,000 annually from its tire investigations, which had much to do with the abandonment of the fabric in favor of the cord tire, and \$100,000,000 annually from the motor-fuel investigations.

(i) *Aids to the Consumer.* — In 1921 Secretary Herbert Hoover established the division of simplified practice in the Bureau of Standards. It is a centralized agency to induce manufacturers to limit their variety of products to essential kinds and sizes without discouraging artistic or ingenious creations. The division has no power of compulsion. It attempts to educate the producers to the advantages of standardization, makes surveys of industries to show wasteful practices, and has brought the leaders of more than a hundred industries into simplified practice agreements.

Many agreements have been entered at conferences called by this government bureau, others have resulted from the educational campaign carried on by it, and in some instances producers have themselves seen the advantages of eliminating wasteful varieties. The standardization by Henry Ford is well known, and the General Motors reduced the variety of parts from 13,000 to 2100. A manufacturer of electric lamps reduced his variety of lamps from 1260 to 180 types. Manufacturers of beds agreed to reduce the sizes of beds, springs, and mattresses from 78 to 4. And manufacturers of milk bottles agreed to produce milk bottles with the same size tops which will take a cap of one diameter instead of the ten sizes formerly made.

This simplified practice results in many economies to manufacturers, makes possible a high wage scale for labor, and results in convenience for everybody. Mr. Ford's simplified practices have made him rich, have enabled him to pay high wages, and have resulted in inexpensive cars which would not be possible if he catered to the whims of each individual. When tops of milk bottles are the same size, dairymen can cap any of the thou-

sands of bottles that become mixed with the bottles of competitors, or the millions that are carried from one city to another in dining cars. And the inconveniences resulting from 78 different size beds, springs, and mattresses are too well known not only by boarding-house keepers, who try to fit a new spring to an old bed or a new mattress to an old spring — but to everybody.

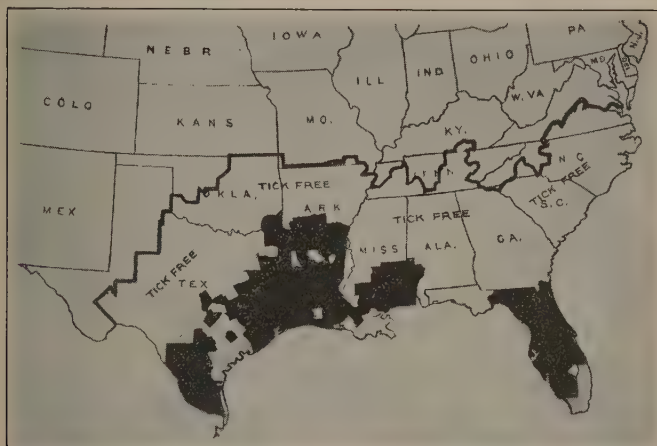
(j) *Aids to Agriculture.* — The National, State, and county governments all give aid to agricultural industry. For instance, the Federal Department of Agriculture has a bureau of plant industry, with scientists to introduce valuable plants into the United States — *e.g.*, hardy wheat from northern Russia which resists wheat rust and thrives in dry climates; a variety of alfalfa from the plains of Turkestan which resists droughts; Smyrna figs in California after twenty-five years of experimentation, and dates which are now successfully grown in the Southwest.

The Federal Department of Agriculture also promotes animal industry in various ways. The Texas fever had made the cattle industry unprofitable in many parts of the country when the government veterinarians discovered that the fever was carried by ticks. The ticks are now killed by driving the cattle through narrow vats filled with a chemical solution, and large areas have been freed from this fever. Six times the department has driven the hoof-and-mouth disease back across the Atlantic. It has also discovered a serum and virus that makes hogs immune from cholera, an epidemic of which has bankrupted many a farmer.

In remote corners of the West mountain lions, bobcats, bears, wolves, and coyotes prey upon sheep, cattle, and horses. To combat these predatory animals this department maintains hundreds of hunters who use guns, traps, and poisonous baits with appealing odors. In one small region of Colorado where sheep owners used to lose about twenty-five sheep a day, sheep now range unattended without loss. Rabies, prevalent among these animals, is spread rapidly to stock and to human beings. When an outbreak is discovered, hunters are concentrated to

prevent its spread which would mean the loss of millions of dollars and many human lives. Various methods of killing prairie dogs, gophers, ground squirrels, jack rabbits, rats, and mice have been worked out by the department.

Not only have domesticated animals been protected from wild animals and diseases, but the stock has been improved by



REGION RECLAIMED FROM TEXAS FEVER FOR CATTLE INDUSTRY.

scientific breeding. Even the honey-bee has been bred up and improved and is a better honey producer to-day than his remote ancestors.

The Agricultural Department prepares numerous bulletins for free distribution, which keep farmers informed as to the latest methods of farming. It also prepares bulletins for the wives of farmers, so many of whom are thin and old at thirty because they work fifteen hours a day without mechanical helps while the husband buys machinery for the fields, but none for the household. These bulletins give the housewife such information as how to have running water in the house, how to can fruits, and how to operate a community laundry by the waste steam from the creamery.

Roads are built by State and local governments, but since 1916 Congress has appropriated to the States for a Federal-Aid Highway System more than a billion dollars. (See page 287.) The National government also carries on extensive experiments with the various kinds of road material to assist the States in economical and durable road construction. For example, 61



UNITED STATES ROAD EXPERIMENT TRACK.

sections of concrete, each of different quality or preparation, were constructed on a circular runway about 650 feet in circumference and about 4 feet wide. Rails laid at each edge of the runway guide an electrically driven car which runs automatically with such tires and weights as the experiment demands. Inside this track is a 13-foot roadway with 27 sections of asphaltic concrete of different mixtures on which an army truck runs day after day. In a recent experiment it was found that the maximum impact delivered in the tests by a truck equipped with pneumatic tires was only 175 per cent of the rear wheel load as compared with 700 per cent delivered by solid tires.

(k) *Irrigation and Water Power.* — Since the National government began constructing irrigation plants, during the presidency of Roosevelt, it has constructed or is now constructing plants which water an area about equal in size to the State of Connecticut, thus bringing barren lands into a high state of cultivation. One irrigation tunnel in Colorado is six miles long.

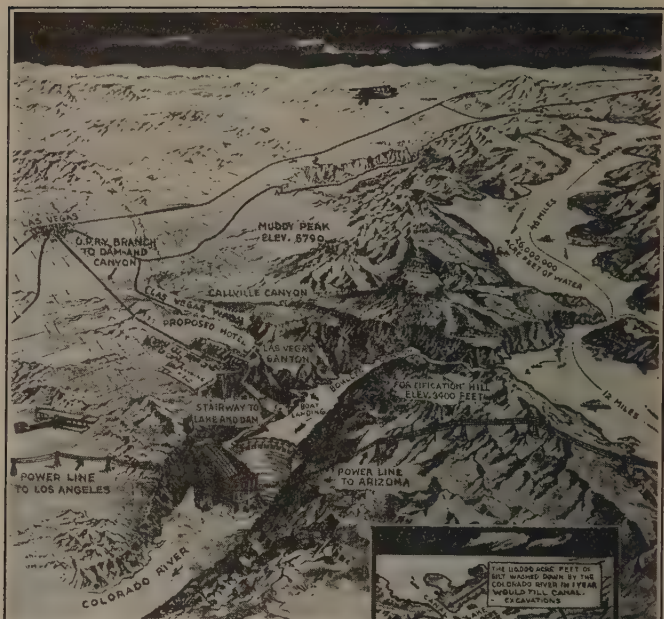


Courtesy Atkinson, Kier Brothers, Spicer Co.

COOLIDGE DAM AT SAN CARLOS, ARIZONA.

This dam was built by the Bureau of Indian Affairs to irrigate Indian lands. When the Roosevelt Dam was built the solid concrete had to be faced with stone; but concrete is now so strong that this dam consists of merely three hollow domes. The power plant is beneath the middle dome. Note the two water-intake columns with walkways to the top of the dam, and the two spillways at each side of the dam.

The Roosevelt dam in Arizona, 280 feet high, sells electric power to Phoenix and Mesa and to large copper mines. The Elephant Butte Dam in New Mexico holds enough water to cover 3,000,000 acres a foot deep. The Huntley project in Montana gives a demonstration of a canal which lifts itself by its own boot-straps. A waterfall furnishes power to raise a portion of the water to a plateau above, which is thus watered as well as the plains below.



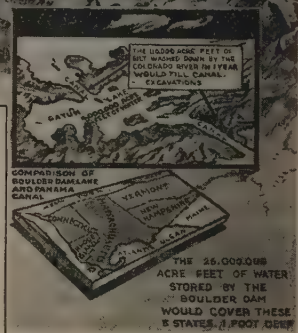
Courtesy Popular Mechanics Magazine.

BOULDER (RENAMED HOOVER) DAM SITE.

The power house shown above is according to early plans. The power house according to the present plan parallels the two banks.

The two small diagrams illustrate vividly the enormous size of this great project.

At a location near the dam site Boulder City has been built for a population of 5000 to accommodate the workmen and their families who must reside in this hot arid region during the construction of the dam.



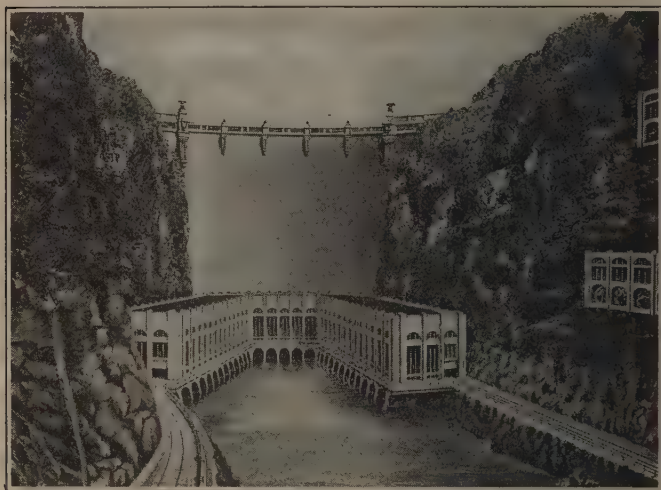


MAP OF BOULDER DAM (RENAMED HOOVER DAM) PROJECTS.

These projects include the Hoover Dam, the power plant, the All-American Canal, and the aqueduct to supply water for Los Angeles and other cities of Southern California.

But all former accomplishments faded into insignificance in comparison with the Boulder Dam Project now under construction.

The hot semi-tropical Imperial Valley at its lowest point is 300 feet below sea level. It was originally part of the Gulf of Lower California. But the Colorado River brought down



ENGINEER'S DRAWING OF HOOVER DAM AND POWER PLANT.

Work on this dam began in 1930, when the Secretary of the Interior called it the Hoover Dam.

enough mud every year to cover 100,000 acres a foot deep. When in flood the river has been described as a stream too thick to drink and too thin to plow. So in time it filled the Gulf of California and built up a deltaic ridge, which is now over 100 feet above sea level at the international boundary.

This ridge forms the southern rim of the Imperial Valley. The Colorado River, flowing along it until it turns south to the Gulf of Lower California, is kept out of the low valley by a levee 70 miles long, all of which is in Mexico.) The difficulty

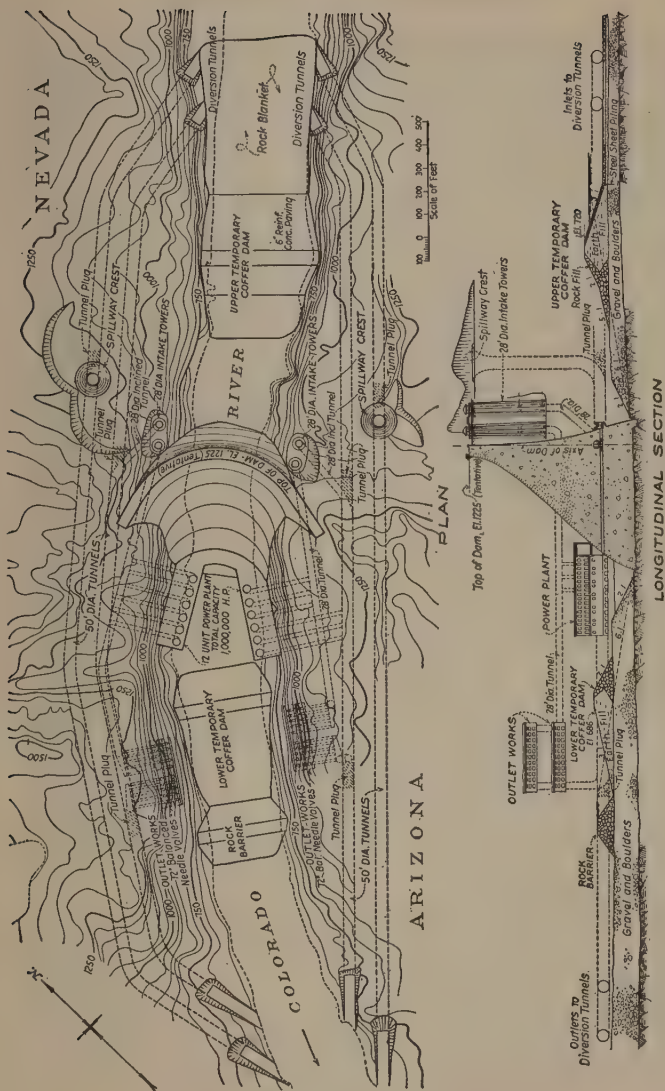


DIAGRAM OF HOOVER DAM SHOWING TEMPORARY AND PERMANENT TUNNELS; SPILLWAYS; INTAKES; OUTLET WORKS; PLUGS TO STOP UP TEMPORARY TUNNELS; ETC.

of maintaining this levee became more alarming each year as the bottom of the river became higher than the land on the land side of the levee. Should the levee break, the homes of nearly a hundred thousand people might become flooded and Imperial Valley become a sea.

In 1928 Congress authorized the appropriation of \$165,000,000 for the construction of "Boulder Dam" at Black Canyon if six of the seven States could agree upon the distribution of the water. (See page 67.) All agreed except Arizona and work began in 1930. The project includes a dam over 700 feet high from the lowest foundation to the crest — the highest dam in the world. The dam will create a navigable lake over a hundred miles long with a capacity of 30,500,000 acre-feet of water; will catch the silt that has been raising the level of the river down at the levees; will store the flood waters from the melting snows which have endangered the inhabitants of the Imperial Valley; will generate 663,000 horse power of electricity continuously and 1,200,000 at capacity, thereby saving 23,000,000 gallons of oil used annually in California to generate electricity; and will provide a uniform supply of water for an enlarged irrigated Imperial Valley and for the growing city of Los Angeles.

The privately owned canal which flows through Mexico to the rich Imperial Valley is to be partially replaced by an immense government-owned All-American Canal direct from Laguna Dam. This will increase the irrigable area of the Imperial Valley about 50 per cent, and from there thousands of train loads of winter lettuce, tomatoes, and fruits will be sent all over the United States.

Thirty miles above Parker, Los Angeles and neighboring communities 300 miles away are to tap the Colorado River and pump water over an elevation of 1400 feet and through miles of tunnels, generating electricity as the water flows west into Los Angeles. This water system may cost Los Angeles \$150,000,000 plus the charge for water and power. Los Angeles has agreed to pay the government 25 cents per acre-foot for

the water ¹ plus 1.63 mills per kilowatt-hour for electricity to pump the water over the divide.²)

The 1928 Act of Congress authorized the expenditure of \$165,000,000 for the Boulder Project on condition that the Secretary of the Interior could sell enough water and power to pay off the cost of the dam with interest at 4 per cent in 50 years. So in 1930, before starting the project, the Secretary entered a contract with the City of Los Angeles and the Southern California Edison Company for a 50-year period. The city and company will install and operate the machinery, the government merely delivering the water to the machines. The purchasers agree to pay the government 1.63 mills per kilowatt-hour for the falling water;³ and at that price to allot 18 per cent of it to Arizona and 18 per cent to Nevada if these States need this amount for their industries, 36 per cent to the Metropolitan Water District for pumping water to California cities, 6 per cent to certain municipalities of Southern California, and 13 per cent to Los Angeles for public use, and 9 per cent to Southern California Edison Company. The Southern California Edison Company also agrees to buy at the above figure any power which the above purchasers are entitled to but do not desire to purchase.

By these contracts for the sale of power and water, plus service charges which will be placed upon lands using water from the All-American Canal, the cost of the project with interest should be repaid in about 50 years. Thus the people of the United States at large will not be taxed for this project.

(5) **Mississippi Flood Control.** — In 1928, following the destructive flood of 1927, Congress authorized an expenditure of

¹ An acre-foot of water is the water that will cover an acre of ground one foot deep.

² 1.63 mills per kilowatt-hour for power is equivalent to 75 cents per acre-foot of water.

³ To be exact, the rate is 1.63 mills per kilowatt-hour for energy available throughout the year and .5 mill for additional power available at times of high water.

\$325,000,000 for flood control in the Mississippi Valley. About \$35,000,000 a year is being expended upon the project.

The existing levees are being raised about 3 feet and greatly strengthened. The flood waters in excess of what the leveed channel will safely carry will be allowed to find their way to the



MISSISSIPPI FLOOD.

These emaciated cattle are being rescued by the United States Coast Guard.

Gulf through the natural floodways in the lowlands of the basins adjacent to the river, which lowlands have always carried extraordinary flood waters.

Protecting levees are to be constructed on the edges of these natural floodways so as to restrain the waters within them and to protect the good lands outside. These protecting levees are to be located so as to reclaim the maximum amount of land that is economically justified. The flood waters will not spill into the side lowlands until they have reached a dangerous stage in the main leveed channel, so that the lands within the floodways will be subject to overflow only during extraordinary floods, which occur once in 10 or 15 years.

The City of New Orleans is to be given additional protection



CONCRETE MATTRESSES.

Instead of willow mattresses, which have been commonly used to protect the banks of the Mississippi, we here have concrete slabs for the same purpose.



MISSISSIPPI RIVER LEVEE IN LOUISIANA.

The old broken levee is to the left and the Old Spanish Trail to the right.

by a controlled spillway emptying into Lake Pontchartrain from the river above the city.)

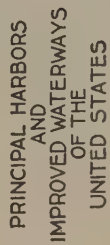
The navigable channel is to be retained by dredging, by contraction works, and by adequate protection of the banks.

(6) **Aids to Navigation.** — All together the United States has spent between two and three billion dollars for the improvement of rivers and harbors. Army engineers estimate that the savings



UNITED STATES PIPE LINE DREDGE "BARNARD."

to the people in the reduced cost of transportation of commodities moving by water are \$600,000,000 a year as a result of the river and harbor improvements. The rivers have a total length of some 50,000 miles, and for about half of this distance they are kept navigable. For instance, the Ohio-Mississippi is now navigable for a distance of 2000 miles from Pittsburgh to the Gulf for tows of eight-foot draft or more throughout the year. This is made possible by dredging the Mississippi River and by 47 movable dams in the Ohio River which open to permit the spring floods to pass through without submerging the surrounding country.



(7) **Government Changes Old Laws in the Interest of Society.** — We inherited from England many common-law rules which were developed by courts; but in recent years some of these rules have been replaced by more humane statutes. For instance, under the old rule, when an employee was injured and sued an employer for damages, the employee had to prove that the employer had been negligent. To meet this proof the employer could use any of the following defenses: contributory negligence on the part of the employee, negligence on the part of a fellow servant, or assumption of risk.)

To illustrate, a young woman, whose hair was disheveled because of the heat, had her scalp torn off by a laundry mangle, but she could not obtain damages because the employer showed that she had contributed to the accident. A workman injured in a quarry by a runaway car could not obtain damages because a drunken fellow workman had released the car. And a woodsman could not obtain damages for injuries caused by a falling tree because he had assumed the risk of this dangerous occupation.

State after State has abolished the three old common-law defenses, and to-day in most States the injured in designated industries are compensated even though they have been careless. This compensation is paid from workmen's compensation insurance funds maintained principally by employers. It is now considered better to place the cost of all injury upon the industry rather than upon the individual.

(8) **Government Performs Functions in the Interest of the Community without Profit Which as Private Ventures Would Have to Be Performed for Profit.** — If the National government had not built the Panama Canal, it would probably have been built as a private venture. Much of the western land irrigated by the National government would have been irrigated by private companies. If the National government had not built the Alaskan railroad, private capital might have; and if the United States had not established a postal system, private capital cer-

tainly would have organized such a system. All of these enterprises are now conducted in the interest of the community irrespective of the profit they might yield, whereas private companies would have to conduct them so as to secure profits.

Of these National ventures the postal system is the most interesting. Originally such systems were maintained by governments of the Old World to carry messages for the king and



IN THE FIFTIES THE GOVERNMENT SUBSIDIZED WESTERN MAIL.

Without liberal mail contracts there would have been no scheduled mode of travel to the Far West by land.

ministers of state. The carrying of letters for the public was added later, and as late as 1860 the sole business of the United States post office was to carry letters, papers, and small packages from one office to another, where they were distributed from a window. Now it supplies city and rural carriers, special delivery messengers, street boxes, registry, postal cards, stamped paper, stamp books, metered devices set by the postmaster for a given number of impressions paid for at the time of setting and which automatically lock upon the exhaustion of such impressions, and guaranteed return postage permits. It maintains a money-order system, a parcel-post system, and a savings-bank system.

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QUESTIONS ON THE TEXT

1. Why is government important?
2. How much is spent by our National government each year? By our State, county, and other local governments?
3. What is the average cost of government per capita in the United States?
4. How is the cost of government borne, and by whom?
5. Is the cost of government becoming more or less of a burden?
6. Name and explain the benefits of government discussed in the text.
7. How much is spent on public free education in the United States annually?
8. How is the health of citizens of the United States protected from contagious diseases prevalent in foreign countries?
9. What great services have been rendered the American people by the United States Public Health Service?
10. In what way are the public morals of your community regulated?
11. What is the census of the United States? What are its benefits?
12. What are the benefits of the Bureau of Standards?
13. What service has the Agricultural Department of the United States performed for American farmers?
14. Explain the Boulder Dam project. Why will it not impose burdens upon taxpayers?
15. Explain how Mississippi floods are to be controlled by government works.
16. To what extent does the United States government aid navigation?
17. Explain how the government changes old laws in the interest of society.
18. Why is it better to have some lines of business conducted by the government instead of by individuals?

QUESTIONS FOR DISCUSSION

1. What connection is there between free public schools and government by the people?
2. Is it cheaper to send articles by mail or by express? How many pounds may be sent by mail? How does the parcel post encourage commerce?

3. What would be the effect upon the stock-raising industry if there were no cattle quarantine regulations?

4. It has been said that society would drift into barbarism in a generation if it were not for religion and public opinion. What would be the effect upon society if all governments ceased to exist?

5. Why are taxes lower in China than in the United States? Give arguments in favor of high taxes.

6. Do you think that only taxpayers should be permitted to vote? Who are the taxpayers?

7. In 1930 there were 1,499,114 more males than females in the United States. Where could you verify this fact? What practical use could a manufacturing firm make of the fact that there were 106,210 more females than males in Massachusetts and 196,293 more males than females in Michigan? What industries of these two States account for these facts?

8. Why do governments enact laws regulating the following: (a) workmen's compensation; (b) minimum wage; (c) hours of labor; (d) widows' pensions; (e) employment bureaus; (f) food; (g) weights and measures?

9. Is the regulation of savings banks, building and loan associations, trust companies, and life insurance companies more in the interest of the rich or of the poor?

10. If the population of the United States continues to increase at the rate of one every 23 seconds, as estimated by the Census Bureau in 1930, how much population will the country have in 1940?

11. The Census gives the number of tractors on the farms of each county in the United States. To whom is this information of value? Who want to know how many airplanes there are in the United States and where they are?

12. Jefferson had some doubt as to the propriety of a National post office, thinking it might be better to leave the carriage of letters to private enterprise. Do you think post offices in private hands would have resulted in the following:

In the reduction of postage on a four-page letter from Boston to Charleston from one dollar to two cents?

In reducing the rates of postage before commercially profitable in order that intercourse may be maintained between scattered friends, and thus strengthen our nation?

In establishing rural free delivery although it is not self-sustaining?

In carrying public documents free and thus saving millions of dollars for the government?

In establishing free postage for county newspapers? All periodicals

have been carried for less than cost to cement our Union through free interchange of thought.

In establishing five mail routes in the fifties to encourage settlement between the Mississippi River and California? The business of one typical year showed postal receipts of \$39,775 and expenditures of \$1,446,447. The arrangement was really a bonus to Wells Fargo and other companies to maintain stage routes.

In establishing air routes to promote aviation as well as rapid communication?

In picking up foreign first-class mail from ships by airplane to hasten its delivery?

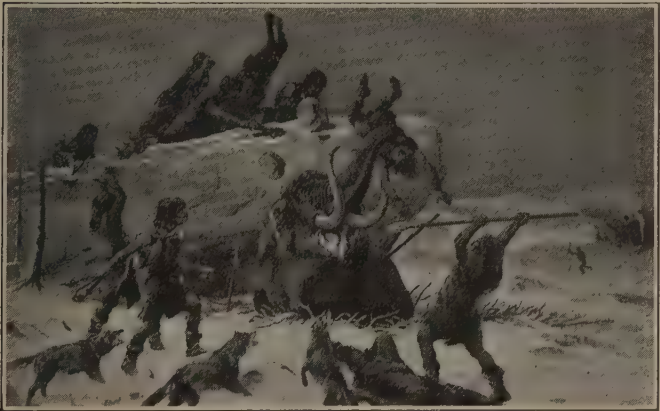
In promoting the merchant marine by giving foreign mail contracts to American lines at a higher rate than foreign vessels charge?

In providing a corps of inspectors and issuing fraud orders to prevent the operation of fraudulent schemes, such as medical panaceas, promises of lucrative work at home if you buy the equipment, etc.?

CHAPTER II

DEVELOPMENT OF THE STATE

Introduction. — In living organisms there is a continual tendency for the simple to develop into the complex, and so it has been with organized society — the state. In the beginning very few functions were performed by the state, but new discoveries and inventions created new social and economic conditions which could be solved only through the united action of society; so the state has developed to its present position along with these various social and economic changes.



STONE AGE MEN KILLING ELEPHANT.

At some time in the history of the world the ancestors of every race of people lived in a rude, uncivilized manner. The want of food and of other material comforts brought suffering; superstition brought fear; and lack of wisdom brought misunder-

standing, quarreling, fighting, war. From this rude condition some peoples have advanced through many stages of social and economic development in the upward trend of the human race. The most highly developed nations have gradually advanced through the following stages: hunting and fishing, pastoral, agricultural, commercial, manufacturing, and capitalistic. Each social or economic stage demanded a more extensive organization; and in turn, each extension of political organization made possible the advance to a more complex social or economic stage.

Hunting and Fishing Stage. — During the hunting and fishing stage of each race the mode of living was but little above that of beasts. Men lived from hand to mouth in the struggle for existence. Ownership in land was unknown, but each savage horde had temporary hunting grounds beyond which their members went at their peril. They had little need and less capacity for political organization.



A SHEPHERD WITH HIS FLOCK.

Pastoral Stage. — When an ingenious horde saved alive the young of wild animals and domesticated them, an epoch-making step was taken. By a little foresight and self-denial food was on hand for times of scarcity. The abundance of flesh foods gradually banished cannibalism, especially when it was perceived that a muscle of a captive was worth more for labor than for

food. Permanent food supplies and slaves gave leisure and opportunity for meditation. Wandering hordes became family tribes bound together by the common possession of flocks

and herds. These possessions aroused the envy of neighboring bands, and organization for defense became necessary. The patriarch of a family became leader of this organization and developed absolute authority to the extent of life and death over his wives, sons, daughters, sons' wives and children, and slaves. In reality he was an absolute ruler over a "family state."

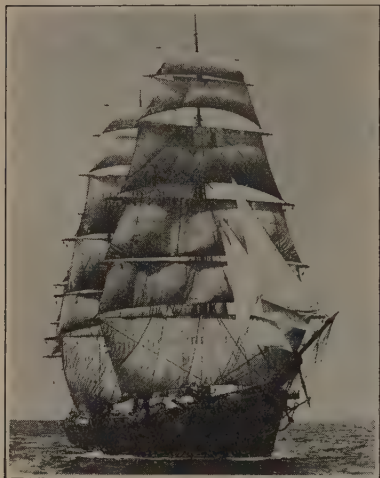


PRIMITIVE AGRICULTURE.

Agricultural Stage. — The possession of flocks made the habitation of man sufficiently permanent to make possible the planting of seeds with the thought of ultimately reaping the harvest. Slavery became more profitable, the possession of land became necessary, and ownership desirable. As family tribes gradually sent out clans to establish new village communities, common blood, common religion, and common economic interests held them together in loose confederations for social and commercial intercourse and for self-defense. In short, the necessary elements of a modern state existed: law and authority, permanence of organization, and a consciousness of political unity.

Commercial Stage. — Wealth in flocks, herds, and agriculture multiplied man's needs. Commerce met the demand. Yoked beasts of burden, sailboats, and forms of money as a medium of

exchange gave the merchant a place in civilization. Cities developed at convenient locations on trade routes. Coöperation against pirates and robbers and regulation of city populations made city states necessary.



Ewing Galloway.

AN EARLY TYPE OF MERCHANT VESSEL.

Manufacturing Stage. — The establishment of cities and commercial routes encouraged manufacturing, and in turn manufacturing gave a further contribution to commerce. During the manufacturing stage, hand implements slowly gave way to machines. For

example, the hand spindle of prehistoric times was replaced by the spinning wheel in 1530; and late in the eighteenth century steam power was applied to the manufacture of cloth. This process brought people from scattered farms into growing towns and cities. City life brought experience and education to the people, and enabled them to wrest their rights from absolute monarchs or privileged nobles.

Concentration of Capital. — One outcome of the conditions mentioned above is the concentration of capital, especially in large cities. Advanced nations have developed expensive factory machines which make large-scale production profitable. The maintenance of such factories requires large capital. Similarly the application of steam to boats and railroads, which bring

raw material and food supplies to the manufacturing plants and distribute the output to distant consumers, also makes necessary the concentration of capital. The development of banking systems has aided in bringing about the same situation. The result is that unless checked by law, there is a possibility of nation-wide and even world-wide monopolies. Such monopolies could control prices and the wages of the workmen. As a protection against this danger, Congress has established such administrative bodies as the Interstate Commerce Commission and the Federal Trade Commission.

Coöperative Stage. — In reviewing the foregoing stages of social, economic, and political development it will be noted that the first duty of politically organized society, or the state, was the protection of life and movable property; then the regulation of land was added; and now commerce and manufacturing are regulated by law. If the price of any commodity is unduly advanced by a combination of capitalists seeking unreasonable profits or a group of laborers demanding unfair wages, the people are disposed to use their power, the state, to prevent it. In other words, government recognizes as one of its duties coöperation with all the people to look out for the best interests of all.

Some have urged a further development of the coöperative stage in the form of government ownership of large businesses,



Ewing Galloway.

A PRIMITIVE HAND LOOM.

which would be conducted by the National government in the same manner that it now conducts the postal and parcel-post business; or as many European states conduct express, telegraph, and railroad businesses. Many American leaders now



THE NATIONAL CITY BANK OF NEW YORK AND KINDRED INSTITUTIONS.

advocate government production and distribution of electric power. But the danger of developing the coöperative stage too far is that it tends towards the type of Russian communism which stifles the initiative of the individual.

Proper Functions of Government.—Men differ widely as to the proper functions of government and may be classified roughly under the following heads:

Individualists believe that governmental action should be restricted to the maintenance of peace and order.

Collectivists believe that a government should do anything which the citizens think can be performed by it better than by any other agency: for example, compulsory education, public hospitals, and the supervision of conditions under which employees work in factories.

Socialists believe that a government should go further and own and operate such public utilities as railroads and telephone systems and such natural resources as coal mines, oil wells, and water-power plants.

Communists believe that a government should abolish the

system of private property and should own and operate practically all industries.

Anarchists believe in the abolition of government and in trusting to voluntary coöperation for desirable social action. Most people think that anarchism is a step backward to the dawn of social organization before responsible authority evolved.

How a State Exercises Its Powers. — A *state*¹ is an organized body of people living within a limited territory and having power to make and enforce laws without the consent of any higher authority.² A *government* is the agency through which a state's purposes are formulated and executed. If the agents who run the machinery of government are under the absolute control of one person, an *absolute monarchy* is said to exist; but if the monarch is restricted in his powers, the government is known as a *limited monarchy*. If the people select their own agents to run the government without a monarch, a *republic* exists.³

If the citizens of a state are uneducated and incapable of choosing representatives, or unwilling to abide by laws which their representatives make, an absolute monarchy may be the only form of government able to hold the state together. At one time England was an absolute monarchy, but in 1215 the nobles compelled the king to sign the Magna Charta and thereby to yield certain of his powers; in 1689 the king signed the Bill of Rights, in which he transferred many powers to the representatives of the people in Parliament; and from time to time powers have been transferred until to-day the King of England is much less powerful than the President of the United States.

The people of England now rule through their representatives

¹ Throughout this volume the word *state* printed with a small "s" denotes an independent state belonging to the family of nations, as England, France, the United States; the word *State* printed with a capital "S" refers to one of the members of the United States of America, as Maine, Pennsylvania, Virginia.

² A state is the sum total of all its citizens — men, women, and children.

³ If any state were small enough for the people to assemble and make their laws directly, a *purely democratic government* would exist.

in Parliament with more power than the American people rule through their representatives in Congress, because a British statute cannot be vetoed by the king nor declared unconstitutional by the courts. Thus we see that an absolute monarchy is limited in proportion to the enlightenment of the citizens and in time naturally gives way to a limited monarchy, as in England, or to a republic, as in France.

✓ **American Types of Government.** — The governments of the United States and Latin America are of the executive type. The chief executive, called president, is chosen independently of the legislative branch ¹ and holds office to the end of the term for which he is elected, whether the congress approves his policy or not, in marked contrast to the European or parliamentary type, where it is the custom for the executive officers to resign when they no longer have a working majority in parliament.

The United States and independent governments of Latin America are republics in name. Some of them have only one government, while others, like the United States of America, also have a government for each of the federated states. Some of these countries are governed more or less according to laws made by the representatives of the people. They are said to have constitutional government. In others it becomes necessary for the president to take governmental matters more or less in hand. Such a country may be said to have a dictatorial government. The following outline of examples may help to clarify the terms used in this paragraph.

Executive	{ Limited Monarchy (None)		
	Republic	{ Centralized	{ Constitutional (Cuba)
			{ Dictatorial (Haiti: 1917-1930)
		{ Federal	{ Constitutional (U. S. A.)
			{ Dictatorial (Venezuela)

¹ Venezuela is an exception to this practice. There the president is chosen by congress for a term of seven years.

European Types of Government. — The governments of Europe adopted the parliamentary type which was developed in England through many centuries; and even the countries with dictators have more or less held on to the parliamentary forms of government.¹ Under the parliamentary type the chief executives (prime minister and cabinet) are subordinate to the legislative branch and must resign when their leadership ceases to retain the confidence of parliament.

Parliamentary	Limited Monarchy	Centralized	Constitutional (Great Britain)
		Dictatorial	(Italy)
	Republic	Federal	Constitutional (Canada)
			Dictatorial (None)
		Centralized	Constitutional (France)
			Dictatorial (Poland)
		Federal	Constitutional (Germany)
			Dictatorial (Russia)

Terms Used in the Above Outline Defined. — A *Limited Monarchy* is a representative government with a monarch limited by constitutional restrictions, like that of Great Britain or Canada.

A *Republic* is a representative government without a monarch, like that of the United States or France.

A *Centralized Government* is one whose authority extends throughout a consolidated state with power to make all laws, like that of Great Britain and France.

A *Federal System of Government* is one with powers divided between the central government and the governments of the states or provinces composing it, like that of the United States or Germany.

A *Constitutional Government* is one in which the rights of the people are protected against the tyranny of a monarch, the arbi-

¹ The government of Switzerland and the Soviet government of Russia show greater departures from the parliamentary government as developed in England than any other European governments.

trary rule of a few, or the oppression of the majority. The protection may be through a written constitution, like that of the United States, or through an unwritten constitution, like that of Great Britain, where there is a traditional respect for the fundamental rights of others.

A *Dictatorial Government* is one whose constitution has never functioned, or has ceased to function normally, where a dictator or a few dictators are dominating the government. Dictatorial government usually occurs where the masses are uneducated, and it often marks a relapse from an unsuccessful experiment with popular government to a more efficient despotism.

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QUESTIONS ON THE TEXT

1. Name six stages of social and economic development.
2. Describe these six stages and explain how each developed into the other.
3. How have economic development and political development depended upon each other?
4. What stages of economic and political development have been attained by the following nations: American Indians when America was discovered? The Jews at the time of the patriarchs Abraham, Isaac, and Jacob? France during the days of feudalism? The Phœnicians about 1000 B.C.? England about 1800 A.D.? The United States to-day?
5. What possible abuses of the capitalistic stage may hasten the co-operative stage?
6. What danger lurks in developing the co-operative stage too far or too fast?
7. Are you an individualist, collectivist, socialist, communist, or anarchist? Why?

8. What is a *state*? What is a *government*? Distinguish clearly between a state and a government.

9. Distinguish between *state* and *State* as used in this text.

10. Does the United States have an executive or parliamentary type of government? Is it a republic or monarchy? Is it of the centralized or federal type? Is it constitutional or dictatorial? Answer the same questions in regard to Great Britain.

QUESTIONS FOR DISCUSSION

1. The first function of the State was to protect life and property; now it provides conveniences and comforts. In the future do you think it should further encourage our sense of the esthetic or beautiful? Do you think it should prohibit billboards on a person's vacant lot if they mar the beauty of the town or landscape?

2. The United States built, owns, and is operating a railroad in Alaska. Do you believe that the United States or your State should develop further into the coöperative stage by owning and operating railroads? Express systems? Telegraphs? Telephones? Wireless? Forests? Water power plants? Coal mines? Banks? Insurance companies?

3. Do you think your county should establish a bus system? What would be the advantages or disadvantages of such a system?

4. Do you think your town should install a water system? Electric power system? Gas system? Bus system?

5. Do you think your city should establish a central heating plant?

6. There was no great need of laws governing copyrights until long after the printing press began its work. The invention of the steam engine created a need for what character of laws? The automobile? The moving pictures? The wireless? The airplane?

7. The government of Great Britain includes a king, parliament, ministry, cabinet, and prime minister. The kingship is hereditary, and nominally has retained such ancient powers as dissolving parliament, declaring war, making treaties, and granting pardons; but practically the king exercises none of these powers until advised to do so by the prime minister.

The Parliament is composed of a House of Commons and a House of Lords. The House of Commons consists of members elected by manhood and womanhood suffrage for a term of five years, or less if the House is dissolved. The House of Lords consists of peers appointed by the king upon the advice of the prime minister, and is hereditary with their eldest heirs.

The ministry consists of the heads of about fifty departments appointed from the two houses by the king upon the advice of the prime minister. Of these about a score are invited by the prime minister to become his advisers, and are called the cabinet.

The prime minister is leader of the party which dominates the House of Commons and is invited by the king to name the other ministers and conduct the government. The policies of the government are determined and the most important bills are prepared by the cabinet. If the House rejects one of these bills, the ministry either resigns or the prime minister directs the king to dissolve Parliament and call a new election. The fate of the measure is then determined by the new House. If the bill is again rejected, the ministry usually resigns.

The House of Lords cannot reject a finance bill but may delay it thirty days. Other public bills rejected by the House of Lords become law without their consent if repassed by the House of Commons at each of the two succeeding sessions.

The king has not dared to veto a bill for two hundred years. On one occasion Prime Minister Gladstone presented a bill to Queen Victoria in a manner which she resented. She said, "I am the Queen of England." Gladstone replied, "I am the People of England." Explain the significance of this reply. Is England in reality a monarchy or a republic? (For a concise account of the English Government see Chapter IX of *National Governments and International Relations*, by F. A. Ma-gruder.)

8. The government of Great Britain is known as a parliamentary government, or a responsible government, because the executive branch is responsible to the legislative branch. Practically all governments outside of America have followed this parliamentary system. Our American system is known as a presidential or executive government because the executive branch is independent of or coördinate with the legislative branch. All Latin-American governments have followed this executive system. Do you agree with Professor Burgess in his following defense of the American type of government? He says: "I think that we are upon the right line, and that those nations which have developed parliamentary government are beginning to feel, as suffrage has become more extended, the necessity of greater executive independence. Parliamentary government, *i.e.*, government in which the other departments are subject to legislative control, becomes intensely radical under universal suffrage, and will remain so until the character of the masses becomes so perfect as to make the form of government very nearly a matter of indifference. There is no doubt that we sometimes feel embarrassment from a conflict of opinion between the independent

executive and the legislature, but this embarrassment must generally result in the adoption of the more conservative course, which is far less dangerous than the course of radical experimentation. . . . The feature *par excellence* of the American governmental system is the constitutional, independent, unpolitical judiciary and the supremacy of the judiciary over the other departments in all cases where private rights are concerned."

9. Does the executive or the parliamentary type of government best lend itself to the demagogue — the politician who insincerely appeals to the prejudices or the ignorance of the uneducated masses? Which type best lends itself to the reactionary — the conservative who wants things just as they are and blocks progress? Which best protects the existing liberties of the individual?

10. Why do the people of various countries permit dictators to hold the reins of government? Are dictators always selfish grafters?

CHAPTER III

ORIGIN OF THE FEDERAL CONSTITUTION

Colonial Government. — In the year 1607 the first permanent English settlement in America was made at Jamestown, Virginia, by colonists whom a commercial corporation, known as The London Company, sent out from England. The Company placed a council with a president over the colonists until 1609, when a governor replaced the president. In 1619 the Company permitted the addition of a general assembly composed of burgesses¹ elected by the inhabitants of each settlement.

This assembly, the first representative legislature that ever sat in America, met on the 30th day of July, 1619, in the chancel of the church at Jamestown. In 1624 The London Company surrendered its charter, and henceforth Virginia was known as a Royal Colony until it declared itself independent of England in the year 1776. The other twelve colonies were established in various ways and from time to time enjoyed different rights or degrees of self-government. According to the mode of government the colonies were divided into three classes: Royal, Proprietary, and Charter.

The Royal Colonies. — At the time of the Revolution, 1776, there were seven Royal colonies: New Hampshire, New York, New Jersey, Virginia, North Carolina, South Carolina, and Georgia. For each of these colonies a governor and a council,

¹ The term "burgesses" was used because it was expected that the settlements would develop into boroughs (towns). After 1634 the "burgesses" represented counties, and in 1776 the name was changed to "assemblymen." Virginia called its colonial representatives "House of Burgesses"; South Carolina, "House of Commons"; Massachusetts, "House of Representatives."

“upper house,” were appointed by the King, and a popular assembly, “lower house,” was elected by the people. The governor in conjunction with his council and assembly ruled the colony in conformity with written instructions issued from time to time by the Crown. There was no written charter between



Harris & Ewing.

“WAKEFIELD,” BIRTHPLACE OF GEORGE WASHINGTON, RESTORED.

This house stands in Westmoreland County, Virginia, not far from Mount Vernon. The original was destroyed by fire Christmas Eve, 1780.

the colony and the King; nevertheless various concessions that the Crown made to the people and the customary mode of government formed a traditionary charter or constitution.

The Proprietary Colonies. — In 1776 there were three Proprietary colonies: Pennsylvania, Delaware, and Maryland. These colonies got their name, “Proprietary,” from the term *proprietor*, which was applied to a “petty king” to whom the King of England had granted the land. For each of these colonies a governor and a council were appointed by the proprietor, and a popular assembly was elected by the people. Hence we may think of a Proprietary colony as very similar to a Royal

colony, the only material difference being that the proprietor, or "petty king," was obliged to concede more rights and privileges to the people than the King would grant. As in the case of the Royal colonies, the concessions and precedents of government formed a traditionary charter or constitution.

The Charter Colonies. — In 1776 there were three Charter colonies: Massachusetts, Rhode Island, and Connecticut. Unlike the other two classes of colonies, a real charter existed between each of these colonies and the King. This charter was a written document outlining certain rights of self-government which could be withdrawn by the King at any time he saw fit to do so. In each of these colonies, except Massachusetts, the governor was elected by the people; in two the council was elected by the assembly; and in each the assembly was elected by the people. The charters of Connecticut and Rhode Island were so liberal that by substituting the word "people" for "King" these colonial charters served as State constitutions until 1818 and 1842 respectively.

Legislative Powers. — In all of the colonies, except Pennsylvania where the council had no legislative power, there were two branches of the legislature; and in all except Rhode Island the governor had power to veto legislation. Legislation was enacted on purely colonial affairs. In matters of general interest to the whole British Kingdom the British Parliament or the King exercised control. It was often a disputed question whether a particular affair was purely colonial or a matter of general interest to the whole Kingdom; and the question, whether or not a stamp tax to support a standing army in America was a tax which the British Parliament had a right to impose upon the colonies, was decided only by the Revolutionary War.

Continental Congresses. — In 1774 the Virginia House of Burgesses issued an invitation to all of these colonial assemblies, calling a meeting of delegates at Philadelphia to consider what could be done to meet their common grievances. This Congress,

in which all the colonies except Georgia were represented, is known as the First Continental Congress. It adopted a declaration of rights and grievances to be presented to the King, and adjourned.

In 1775, after the battle of Lexington, the Second Continental Congress met at Philadelphia, with representatives from all thirteen colonies. Schouler,

the great historian, has concisely described the work performed by this body in the following:

"The Continental Congress . . . (with its periodical sessions and frequent changes of membership bore for fifteen years the symbols of Federal power in America; which, as a single house of deputies acting by colonies or States, and blending with legislative authority imperfect executive and judicial functions, raised



CARPENTERS' HALL, PHILADELPHIA.

The first Continental Congress met here.

armies, laid taxes, contracted a common debt, negotiated foreign treaties, made war and peace; which, in the name and with the assured warrant of the thirteen colonies, declared their independence of Great Britain, and by God's blessing accomplished it; which, having framed and promulgated a plan of general confederation, persuaded these same thirteen republics to adopt it."

The Articles of Confederation. — The authority for the acts of the Second Continental Congress rested upon no definite grant of powers by the colonies, but was assumed by it to meet the crisis of war. However, a plan of perpetual league and a

statement of the powers which the Continental Congress might exercise was framed and proclaimed by the Second Continental Congress in 1777.

This scheme of union was set forth in a paper termed "The Articles of Confederation." These articles did not go into effect until 1781 because it was necessary for them to be ratified by all the States of the Confederation before they could become the law of the land, and it was not until that year that the ratification of Maryland was secured.

These articles provided that each State should be represented in this Confederate (Continental) Congress by not less than two or more than seven members, to be elected annually and to be subject to recall by the legislatures of the respective States ; but each State should have only one vote. This body had power to declare war, enter into certain treaties and alliances with foreign nations, borrow money, coin money, establish post offices, regulate the affairs of all Indians not members of the States, together with a few less important duties.

The expenses of this government were to be paid by taxes raised through the respective State legislatures, the amount to be paid by each State being in proportion to the value of all real property within its boundaries. The compensation of the delegates was paid directly by the State which they represented.

The distinctive features, which also proved to be the greatest defects, of the Articles of Confederation were :

(1) One vote for each State, to which the larger States naturally objected.

(2) Want of power by the central government to act directly on individuals. The articles bestowed upon Congress no direct power to raise revenue other than to borrow money. The States retained this power and they frequently refused to collect the amount of taxes demanded of them by Congress.

(3) Want of means for enforcing obedience to the Acts of Congress. They provided neither for an executive, except committees, nor for permanent courts. A single State could disregard

any law, or treaty, which fact was soon recognized by foreign countries, and clearly expressed by Washington, who said: "We are one nation to-day and thirteen to-morrow. Who will treat with us on such terms?"

(4) Want of power by the central government to regulate commerce with foreign countries and between the several States.

(5) Unanimous consent of the thirteen States for amendment of the Articles of Confederation. The consent of nine of the States was required for all important ordinary laws. To obtain these unusual majorities was practically impossible.

The Critical Period. — The independence of the thirteen States was recognized in 1783, but a large national debt remained unpaid, upon which the interest was not met, because only about one fourth of the revenue which Congress asked of the States was collected. Under these circumstances even the existence of Congress was threatened. For example, some eighty drunken soldiers of the Pennsylvania line mutinied from want of pay and forced Congress to flee from Philadelphia to Princeton, where the college afforded it shelter.

In 1785 Congress made a final attempt to raise the necessary revenue by endeavoring to add an amendment to the Articles of Confederation levying a tax on imports. New York reaped the benefit of a State tax on imports and refused to agree to this amendment, so the measure failed. To save expense some States failed to send delegates to this Congress, and unfortunately many of those that attended were not the leading statesmen who were present during the period of the war. The condition was so bad that the French minister was prompted to write to his country thus: "There is now no general government in America, no head, no Congress, no administrative department."

In colonial days there had been little communication between the colonies, and as soon as peace was restored the States began to fall apart, and to manifest their sectional hatred by commercial discrimination.

The following quotation from Fiske well illustrates the existing conditions :

"The city of New York with a population of 30,000 souls had long been supplied with firewood from Connecticut, and with butter and cheese, chickens and garden vegetables from the thrifty farms of New Jersey. This trade, it was observed, carried thousands of dollars out of the city and into the pockets of the detested Yankees and despised Jerseymen. 'It was ruinous to domestic industry,' said the men of New York. 'It must be stopped by . . . a navigation act and a protective tariff.' Acts were accordingly passed, obliging every Yankee sloop which came down through Hell Gate and every Jersey market boat which was rowed across from Paulus Hook to Cortlandt Street to pay entrance fees and obtain clearances at the custom house, just as was done by ships from London and Hamburg ; and not a cart-load of Connecticut firewood could be delivered at the back door of a country house in Beekman Street until it should have paid a heavy duty. Great and just was the wrath of the farmers and lumbermen. The New Jersey legislature made up its mind to retaliate. The city of New York had lately bought a small patch of ground on Sandy Hook, and had built a light-house there. This light-house was the one weak spot in the heel of Achilles where a hostile arrow could strike, and New Jersey gave vent to her indignation by laying a tax of \$1800 a year on it. Connecticut was equally prompt. At a great meeting of business men, held at New London, it was unanimously agreed to suspend all commercial intercourse with New York. Every merchant signed an agreement, under a penalty of \$250 for the first offence, not to send any goods whatever into the hated State for twelve months." ¹

The tariff system of Virginia imposed higher duties upon imports than those imposed by the system of Maryland, and naturally all articles which could be distributed from Maryland as well as from Virginia were brought to Maryland instead of to Virginia. Virginia retaliated by imposing a toll upon vessels entering Chesapeake Bay between the Virginia capes. Maryland disputed the right of Virginia to impose these tolls. To settle this dispute, as well as to reach an agreement upon other rules governing the Chesapeake Bay and Potomac River, commissioners from Maryland and Virginia met at Alexandria, but upon the invitation of Washington moved to Mount Vernon.

¹ "The Critical Period of American History," page 146.

Through discussion the commercial difficulties were found to extend beyond the two States, and the commissioners recommended that Delaware and Pennsylvania be invited to meet with them the following year, 1786. Maryland did better; she invited *all* the States to meet at Annapolis. However, delegates arrived from only five States, and these delegates, after concluding that it was necessary to amend the Articles of Confederation before any real commercial progress could be made, adjourned to meet at Philadelphia in 1787.



MOUNT VERNON, THE HOME OF WASHINGTON.

The Constitutional Convention. — Virginia was the first State to announce her delegates for the Philadelphia Convention. They were Washington, Madison, and Edmund Randolph. The name of Washington inspired confidence. In May, 1787, delegates from all the States except Rhode Island assembled, fifty-five able delegates being present. Washington was chosen President of the Convention, and it was agreed that each State should have one vote, and that the sessions should be secret.

Drafting the Federal Constitution. — Immediately the Convention divided into two factions — the one representing the smaller States and the other the larger States. Randolph of

Virginia presented the Large State Plan, or the so-called "Virginia Plan," which proposed a Congress of two houses with power to legislate on all national matters and to compel obedience on the part of the States. Representation in both houses was to be based on population, thus giving the larger and more populous States the control of both branches of the legislature; fur-



INDEPENDENCE HALL.

Pennsylvania's Old State House in Philadelphia, where the Declaration of Independence was signed, and where the Federal Constitutional Convention met.

thermore, since by this scheme the President, executive officers, and judges were to be appointed by Congress, supervision of the whole administration of the new government would be under the control of the larger States.

Paterson of New Jersey introduced the Small State Plan, or the so-called "New Jersey Plan," which provided for a Congress consisting of one house. According to this plan each State was to have equal representation.

The result was a compromise. It was agreed that there should be a legislature of two houses: a Senate, the less numerous branch, and a House of Representatives, the more numerous branch. In the Senate each State was to have an equal representation, thus putting the small States on an equal footing with the large ones; but in the House of Representatives the representation was to be according to population, thus favoring the larger States.)

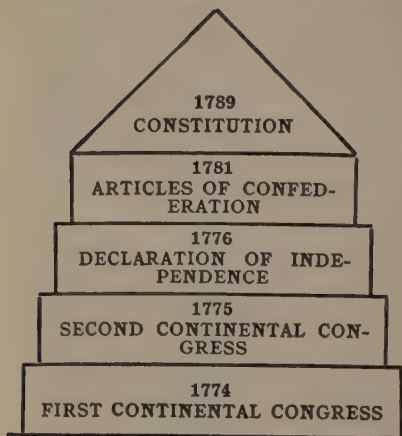
It was also decided by the Convention that the Constitution should be considered ratified and should go into effect as soon as accepted by nine of the thirteen States. Persons favoring the adoption of the Constitution by their respective States were called Federalists, and those opposing it were called Anti-Federalists. From this contest rose the first political parties in the United States.

The Convention adjourned in September, having been in session a little over four months. Gladstone, the famous English statesman, considered this Constitution the greatest work ever struck off at one time by the hand of man.

The fundamental difference between the new Constitution and the old Articles was that the Constitution provided an adequate executive and judiciary to enforce the Federal laws directly upon the individual instead of depending upon the indirect enforcement by the State governments, which had enforced only such as they individually approved.

Arguments For and Against Adoption. — The Federalist Party with such leaders as Hamilton, Washington, and Marshall favored the proposed Constitution because it established a strong National government. This party was especially strong in commercial New England, where the weakness of the old Confederation and the tariff discriminations of the States were brought forcibly home. The arguments of the Federalists appeared in a collection of eighty-five essays, called "The Federalist," written by Alexander Hamilton, John Jay, and James Madison. These essays contain an excellent exposition of the Constitution.

The Anti-Federalists, such as Patrick Henry and George Clinton, favored strong State governments and a comparatively weak National government. They felt that too much power was given to the central government and that State liberty would be crushed out. Patriotism at that time was devotion to the State. A citizen of Virginia abroad called himself a "Virginian" and not an "American." The Anti-Federalists



STONES IN THE MONUMENT TO UNION.

Adapted from Forman's *Advanced Civics*.

compared a strong National government to the English government, by which they had so recently felt oppressed, and they declared that it would be a government founded upon the destruction of the governments of the several States.)

A further objection was that the Constitution contained no definite "bill of rights" guaranteeing to individuals such fundamental liberties as

freedom of speech, liberty of the press, assurance against unjust arrest, and trial by jury. The Federalists practically agreed to add these guarantees, which promise was fulfilled by the adoption of the first ten constitutional amendments in 1791. It was feared that a President might become so popular as to obtain life tenure of office, and thus the government might degenerate into a monarchy. Patrick Henry cried, "We shall have a King; the army will salute him monarch."

By June, 1788, the Federalists prevailed. New Hampshire,¹

¹ The Constitution was ratified by the several States in the following order: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New

the ninth State, ratified. The Continental Congress provided for the election of a President and his inauguration on March 4, which day has since been observed as the beginning of a new term of office. Owing to a delay in the assembling of the new Congress, which Congress had to count the electoral vote, Washington was not inaugurated or our new government put into actual operation until April 30, 1789.

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QUESTIONS ON THE TEXT

1. Name the three kinds of colonies and describe the characteristics of each.
2. When did the First Continental Congress meet? Where?
3. What was done by the First Continental Congress?
4. When did the Second Continental Congress meet? Where?
5. What was accomplished by the Second Continental Congress?
6. What were the Articles of Confederation? When were they framed? When ratified? Why the delay?
7. What were the powers of the Confederate (Continental) Congress?
8. Name five distinctive features of the Articles of Confederation which proved to be their greatest defects.
9. Describe the unsatisfactory conditions existing during the Critical Period. What dispute arose between New York and New Jersey? New York and Connecticut? Maryland and Virginia?
10. When and where was the Constitution drafted?

Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; and Rhode Island, May 29, 1790.

11. What was the "Virginia Plan"? The "New Jersey Plan"? What was the compromise?

12. How many States were required for the ratification of the Constitution? 9

13. What was the fundamental difference between the Constitution and the Articles of Confederation?

14. Who favored the adoption of the Constitution and what argument did they use for its adoption? Who opposed it and what were their arguments?

15. In what year was the required number of ratifications obtained? 1789

16. When was Washington inaugurated as first President of the United States? 1789

QUESTIONS FOR DISCUSSION

1. Let five pupils report on the experiences commemorated by the five stones of the pyramid.

2. Prepare a five-minute paper on "The Critical Period of the American Confederation (1781-1789)." Consult Fiske's "Critical Period of American History."

3. What did the individual State gain by entering the Federal union? What did it lose?

4. If our thirteen States had not united, what nation would probably control northern New England? Florida? Louisiana? Texas? California? Washington? Wisconsin? Minnesota?

5. Which of the following arguments in favor of a league of nations were also applicable to our thirteen States at the time of their union?

(a) Steamships are drying up oceans, airplanes are removing mountains, and wireless is actually eliminating space; that is, scientific inventions have increased the causes of international conflict because nations of different religions, customs, and languages have been brought together. Steamships bring Orientals to the United States, airplanes bring liquor from Mexico, and wireless exchanges yellow journal comments before the facts are known.

(b) Progress is made by coöperation; hence we should not fight but should coöperate with our commercial competitors in developing all backward countries, and thereby create trade enough for us all.

(c) Every community that enjoys peace and order has government. The township, the county, the State, and the United States of America have peace and order because they have governments to secure it. But in the international community where nations meet to settle their complex relations, just as individuals meet in their community, we have

had no impartial officers to adjust their differences. Public opinion and noble impulse must be organized to enforce its will upon the selfish.

(*d*) Justice is maintained by impartial laws that are enforced by impartial tribunals.

(*e*) War takes lives, destroys property, consumes natural resources, and hence increases the cost of living. Therefore, we should settle international disputes by ballots and not by bullets.

CHAPTER IV

THE FEDERAL SYSTEM OF GOVERNMENT

Confederate and Federal Government Distinguished. — The Constitution of the United States provides a federal combination of States as distinguished from the loose leagues or confederations of the ancient Greeks and as distinguished from the unitary state of the present-day French. In 1787, when our Constitution makers changed the thirteen *confederate* States into thirteen *federated* States, they showed to the world a type of government never before tried.

Greek confederations, the Holy Roman Empire (800–1806), the Swiss Confederation (1291–1848), and the American Confederation (1781–1788) depended upon the governments of the States composing them to enforce all laws. In fact, this old type, known as *confederations*, was at best scarcely more than an arrangement for offensive and defensive alliances. On the other hand the new type, known as *federations*, is a close union which enforces its laws directly upon the people, and, with few exceptions, through its own officers.

Advantages of Federal Government in the United States. — The system of federal government in the United States retains the advantages of local self-government for the States as well as secures the strength which results from union. This system of state-making is the most complicated of all methods, but is at the same time the most stable. Not only are the American people enabled to protect their liberties through representation in Congress; but in such matters as religion, suffrage, marriage, and divorce, which produce determined sentiments, the American federal system gives consideration to the wishes of the people of each State.

Texas can tax church property or not as it thinks best ; South Carolina can have the educational test to bar illiterates from voting ; Oregon can require a certificate of health for marriage ; and Nevada can divorce those who desire it. And, further, if the peace of Texas should be disturbed by Mexican invaders, Texas could depend upon the assistance of the remaining forty-seven States for defense ; and should yellow fever in Cuba threaten the United States, the united effort of the States would be exerted to prevent it.

Division of Powers between Nation and States. — The Constitution of the United States is a written agreement entered into by the people of the thirteen original States, and agreed to by the people of the thirty-five States which have since entered the Union.

The general principle governing the division of powers between the National government on the one hand and the State governments on the other is thus laid down in the tenth amendment : " The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States." The National government is said to have " delegated " or " federal " powers,¹ while the State governments have " residual " or " State " powers ; that is, the State governments may do all things other than those provided for by the Constitution.² In other words, the National government must show

¹ Most of these powers are enumerated in the eighteen clauses of Article I, Section 8.

² There are many powers delegated to the National government but not expressly denied to the States. Some of these powers are concurrent in that they may be exercised by either the Nation or the States. The Supreme Court has decided that those powers which are of such a character that the exercise of them by the State would be, under any circumstances, inconsistent with the general theory of National government may be exercised only by the United States.

Those delegated powers not of this character may be exercised by the States until the United States sees fit to exercise them. To illustrate, the Constitution delegates to Congress the power to enact bankruptcy laws. From 1878 to 1898 Congress did not desire a National bankruptcy law. All States enacted them. When a new National bankruptcy law was enacted in

some specific or implied grant of power for everything it does; a State government need only show that the Constitution does not prohibit it from doing whatever it sees fit to do.

The National government has power to

Maintain an army and navy. (Art. I, Sec. 8; Art. II, Sec. 2.)

Declare war and make peace. (Art. I, Sec. 8; Art. II, Sec. 2.)

Make treaties and other foreign relations. (Art. II, Sec. 2.)

Regulate immigration and naturalization. (Art. I, Sec. 8.)

Regulate foreign and interstate commerce. (Art. I, Sec. 8.)

Maintain post offices and post roads. (Art. I, Sec. 8.)

Issue coins and paper money. (Art. I, Sec. 8.)

Grant copyrights and patents. (Art. I, Sec. 8.)

Maintain Federal courts of justice. (Art. I, Sec. 8; Art. III, Sec. 1.)

Collect taxes for the above purposes and for the general welfare. (Art. I, Sec. 8.)

Do anything "necessary and proper¹ for carrying into execution the foregoing powers." (Art. I, Sec. 8.)

By way of illustration, let us enumerate a few powers which the State of Alabama could exercise. She could make laws requiring the consent of police officers to hold a church service; could pay the salaries of Catholic priests; could require all news items to be approved by a State censor before being published; and could prohibit the carrying, or even owning, of firearms.

Alabama could do all these things because there is no provision in the Constitution of the United States prohibiting

1898 any details of the State laws inconsistent therewith became void. Therefore, while the States have a certain amount of power, the National government in reality is supreme in the sphere of concurrent power.

¹ The Supreme Court has construed "necessary and proper" to mean "expedient" or "appropriate."

her.¹ The Congress of the United States, as we have just seen, could not make any of these things lawful because it has not been delegated the power to pass any of these laws. A State can legislate concerning marriage, divorce, insurance, regulation of cities, traffic, factories, and innumerable things which affect only the one State; but the United States cannot legislate concerning these matters because there are no clauses in the Constitution permitting it either specifically or by implication.

Supremacy of Federal Law. — In our Federal system of government some powers granted to the National government are almost certain to conflict with others which were apparently reserved for the State governments. The following passage from the Constitution shows that State laws which conflict with such National laws as Congress has constitutional authority for enacting must yield to the National laws :

“This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land.” This means that California could not prohibit Japanese born in the United States from voting at regular elections, as this would violate the fifteenth amendment to the Constitution of the United States. Further, this also means that California could not hold regular elections for Congressmen in June because a law of the United States prescribes the month of November. Or, if the United States should make a treaty with China agreeing to guarantee to all Chinese residing in the United States all privileges of citizens of the United States, California could not place a higher license upon laundries run by alien Chinese than upon similar laundries conducted by Americans.

¹ It is barely possible but not probable that the courts would declare some of these laws contrary to the fourteenth amendment of the Constitution of the United States. For instance, they might hold that the State censorship would deprive a person of his liberty without due process of law.

Supremacy of the Federal Judiciary. — Not only is the Federal law supreme but the Federal courts decide whether a State or an individual has violated this law. If Virginia should pass a law conflicting with the Constitution, laws, or treaties of the United States, any individual who feels aggrieved thereby might go to court; and, if the case is finally appealed to the Supreme Court of the United States, this court would decide whether the State law really conflicts. The decisions of the Supreme Court are binding not only on private persons, but on States, and even on the Congress of the United States, if the latter passes a law contrary to the Constitution.¹

Interstate Relations. — In the preceding sections of this chapter the relations that exist between the United States on the one hand and the States composing it on the other have been considered. In this section the relations that exist among the forty-eight States will be discussed.

States Independent of One Another. — “Except as otherwise specifically provided by the Federal Constitution, the States of

¹ The power of the courts to declare Acts of Congress, or Acts of State legislatures, unconstitutional according to the United States Constitution is not granted in the Constitution. It was first announced as affecting the United States Constitution in the case of *Marbury v. Madison* (1803). On the evening of March 3, 1801, President Adams signed and sealed a commission appointing one Marbury justice of the peace for the District of Columbia. On the next day Jefferson was inaugurated as President and immediately instructed his Secretary of State, James Madison, not to deliver the commission.

Marbury thereupon applied to the Supreme Court for a writ of *mandamus* compelling Madison to make delivery, and cited an Act of Congress, the Judiciary Act of 1789, which empowered the Court to issue such writs against officers of the United States. But a unanimous decision of the Court written by John Marshall held that the section of the Judiciary Act which authorized the Court to *mandamus* the chief executive was beyond the powers granted Congress by the Constitution and hence unconstitutional. Thus Marshall proclaimed, for the first time in any United States Supreme Court decision, the right of this tribunal to declare an Act of Congress void.

To-day any State or Federal court may refuse to enforce an Act of Congress or an Act of a State legislature, if it believes it to be unconstitutional, until the Act is declared constitutional by the United States Supreme Court.

the American Union, when acting within the spheres of government reserved to them, stand toward one another as independent and wholly separate States. The laws of each State have no force, and its officials have no public authority, outside of the State's territorial boundaries. As to all these matters their relations *inter se* (among themselves) are governed by the general principles of private International Law."¹

Interstate Agreements. — With the consent of Congress, States may enter agreements among themselves.² Many States have thus settled boundary disputes; Washington and Oregon agreed upon the protection of fish in boundary waters; and New York and New Jersey agreed upon a Port of New York Authority and a comprehensive plan of bridges, tunnels, and belt railways.

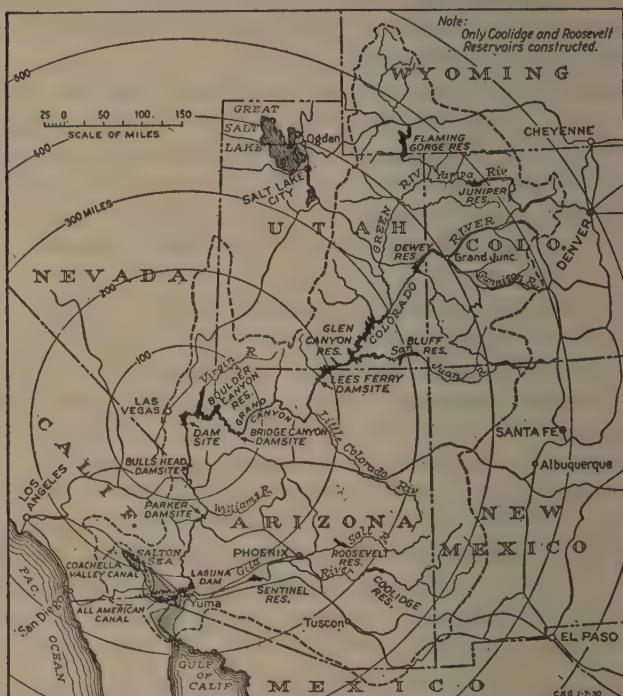
The Boulder Dam agreement among the States of the Colorado River basin is the first great attempt in this federation of States to bring together a great number of States as political units for the development, control, and management of a regional river in which they are all interested. When a river flows through a number of States and does not supply enough water for the demands of them all, the first that make proper use of the water are generally considered to have prior rights over others that subsequently divert water from the stream to the injury of prior users farther down the stream. When the building of the great Boulder Dam began to be discussed the upper States took alarm. It would enable California, which was immediately ready to use the stored water, to assert a right to all the unused water above. It could not be asserted against existing uses, but would be a menace to the future development of the upper States.

To meet the opposition of the upper States, a conference of the representatives of the seven States and the United States was held at Santa Fe, New Mexico, in 1922. Herbert Hoover, then Secretary of the Department of Commerce, was made the na-

¹ Willoughby on the Constitution of the United States, page 294. 1929 ed.

² U. S. Constitution, Art. I, Sec. 10.

tion's representative and became chairman of the conference. An agreement was reached and a compact signed, which was submitted to the Federal government and to the respective States for ratification. . It was based on the assumption that the aver-



BOULDER CANYON IS THE LOWEST OF THE MAJOR DAMSITES ALONG THE COLORADO.

age yearly discharge of the river was somewhat in excess of 16,000,000 acre-feet. Of this, 7,500,000 acre-feet were allotted to the four upper basin States, Wyoming, Colorado, Utah, and New Mexico, and 7,500,000 acre-feet to the three lower basin States, Nevada, Arizona, and California, with the right of the

lower basin States to increase their consumptive beneficial use of such waters by 1,000,000 acre-feet per annum.¹

Six of the seven States ratified the above compact. Arizona refused to ratify. However, in 1928, Congress authorized the construction of the Boulder Dam project upon the agreement of six of the seven States; and in 1930 work on Boulder Dam (renamed "Hoover Dam") was begun. Arizona applied for an injunction against the construction of the dam, but in 1931 the Supreme Court of the United States denied the injunction. It affirmed the authority of the Federal government to construct dams on interstate rivers for the prevention of floods, for reclamation of arid lands, for storage of water, and for development of power. Arizona's claim based on sovereignty over its share of the water of the Colorado River and on its dissent from the Colorado River compact was thrown out of court. (See page 22.)

Full Faith and Credit Clause. — The Constitution specifically provides that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State, and Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof." (Art. IV, Sec. 1.)

By "public acts" is meant the statutes and ordinances in force in a State. For instance, in Maryland one may be married without a license if the marriage is announced in the church of the parties three successive Sundays before the ceremony. All other States recognize such a marriage although they require a license for marriage solemnized within their States.²

¹ California agrees that its annual consumptive use of Colorado River water shall not exceed 4,400,000 acre-feet of the waters apportioned to the lower basin States, plus not more than one half of excess waters unapportioned by the compact.

Mexico also became alarmed lest the American States use all of the water of the Colorado and deprive her of the annual flow which is now used for irrigation in Mexico. This problem is being handled by our Department of State.

² A State is not under all conditions required to recognize a divorce granted in another State; but it usually recognizes it as a matter of comity. The

"Records" mean such official files as deeds, births, marriages. One can prove age, marriage status, or title to land by obtaining a certificate from the proper clerk in the State where the record was made.

By "judicial proceedings," as here used, civil suits only are included. Suppose A brings suit against B in a court of New York, of which State both parties are residents, and the court decides that B owes A \$1000 and gives A judgment. B moves to New Jersey taking all of his property with him before it can be attached for the debt. A follows him and shows in the New Jersey court of proper jurisdiction the judgment of the New York court with the certificate of the New York judge, the signature of the court, and the seal of the court. The New Jersey court, without reëxamining the merits of the original claim, will give "faith and credit" to the judgment and will have its officer collect the debt for A. ✓ ✓

Privileges and Immunities. — The Constitution specifically provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." (Art. IV, Sec. 2.) This means that a citizen of one State may go to another State and there enjoy the same civil rights¹ that citizens of the latter State enjoy, and likewise be subject to the same restrictions.²

courts hold that a State should give "full faith and credit" to divorces granted in another State under three conditions:

(1) When both plaintiff and defendant (see page 335, note) are residents of the State in which the divorce is granted.

(2) When the defendant is not a resident of the State where the plaintiff lives, but is given notice while in the State or voluntarily appears.

(3) When the State granting the divorce has jurisdiction over the last matrimonial domicile of the couple. That means that a divorce granted to the party who remains in the State where the couple last lived together must be recognized by other States.

¹ *Civil rights* are those of person and property.

² Under the "privileges and immunities" clause a corporation is not a citizen. Therefore a State may refuse a corporation chartered in another State the privilege of conducting business in its borders. For instance, outside insurance companies may enter a State only on such conditions as

As an example of the rights a citizen of one State may enjoy in another State, the legislature of Maryland passed a law (1868) imposing a license on the privilege of selling articles not manufactured in Maryland. For citizens of Maryland the license was not to exceed \$150, but for citizens of other States the license was to be \$300. Mr. Ward of New Jersey refused to pay more than \$150, and the Supreme Court of the United States decided that Mr. Ward could not be required to pay more than citizens of Maryland.

As an illustration of a restriction upon a citizen of one State while in another State, a male citizen of Washington cannot marry in Oregon unless he is physically examined in accordance with the Oregon law and presents a health certificate.

The courts have never given a complete list of privileges and immunities, but the following are some of them: The right to pass through, or reside in any other State for the purpose of trade, agriculture, professional pursuits, or otherwise; to demand the writ of *habeas corpus* (see page 355); to bring suit in the courts of the State; to make contracts; to buy, sell, and own property; to pay no higher taxes than the citizens of the State; to marry.

A State is not required to grant *public* or *political* privileges to non-residents. It may require one to live in a State a specified period before voting or holding office.

A State may require a period of residence in a State before it grants licenses to practice medicine or dentistry, and may restrict the practice of law to citizens of the State. The State has the right to take time to observe the moral character of a person who desires to enter an occupation of great importance to the general public.

the State may impose; *e.g.*, that premiums collected in a State be invested there. But a State cannot interfere with interstate commerce without the consent of Congress, and a corporation has the same privileges of interstate commerce as a natural person. It may ship commodities into a State under the same conditions as a natural person, and may likewise become an interstate common carrier.

Wild fish and game are property of the State, therefore a non-resident may be compelled to pay a higher fee for a hunting or fishing license than a resident, who pays taxes to help maintain the State game and fish hatcheries. Likewise a State school may charge higher tuition to non-residents than to residents.

Extradition. — The Constitution specifically provides that “a person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall on demand of the executive authority of the State from which he fled be delivered up to be removed to the State having jurisdiction of the crime.” (Art. IV, Sec. 2.)

Occasionally a governor has refused to surrender an accused person and neither the United States courts nor the President of the United States have compelled him to do so. For instance, a number of years ago ex-Governor Taylor of Kentucky was indicted as having been implicated in the murder of Governor Goebel, and fled to Indiana. The governor of Indiana, feeling that Taylor, a Republican, would not receive a fair trial by the excited Democrats who were then in control in Kentucky, refused to extradite him.

Interstate Commerce. — Without the consent of Congress a State cannot forbid shipment into its borders of commodities from another State or a foreign country. But under the State's police powers to promote health, morals, and safety, it may regulate or forbid the sale of interstate commodities as soon as the original package is once sold, broken open, or used. For instance, a State may forbid the sale of cigarettes; but it cannot interfere with the sale of cigarettes shipped in from another State until the large package in which cigarettes are ordinarily shipped is once sold or opened.

In 1913 Congress enacted a law prohibiting the transportation into a State of intoxicating liquor to be possessed or used in violation of the law of that State. This enabled a dry State to seize liquor as soon as it crossed the border and before the con-

tainer was sold or opened. This was before the Eighteenth Amendment extended prohibition to all States.

Another law of Congress, effective in 1934, gives any State control over convict-made goods shipped in from another State as soon as delivered and before the original package is broken.) Thus a State that forbids the sale of convict-made goods made within the State can also forbid the sale of such goods shipped into the State as interstate commerce.

Congress has also permitted the States to establish quarantines against disease-carrying commodities from another State.

Separation of the Powers of the National Government. — The division of the powers between the National government and the State governments has been discussed. The powers of the National government are further separated into three grand departments — the legislative, the executive, and the judicial.

Legislative Department. — The Constitution of the United States provides that all legislative (law-making) powers of the National government shall be vested in a Congress. (This body cannot authorize any other persons to legislate in its stead, but it can lay down rules and authorize others to put them into effect conditionally. For instance, it can direct the Interstate Commerce Commission (see page 148) to prescribe reasonable railroad rates. Thereupon the Commission can prescribe a two-cent passenger fare on condition that this low rate will allow the railroad companies to earn reasonable profits.

Executive Department. — The Constitution of the United States provides that the executive (law-enforcing) powers shall be vested in a President, whose duty it is to see that the laws that have been made by Congress are executed.

Judicial Department. — The Constitution of the United States provides that the judicial (law-interpreting and law-applying) powers shall be vested in one Supreme Court and such inferior courts as Congress shall from time to time ordain and establish.)

Check and Balance System. — The legislative, executive, and judicial functions of government were vested in three separate bodies of public servants in order that each might be a check upon or balance to the other. The Constitution makers greatly feared the tyranny of a king after they had succeeded in throwing off the yoke of George III, and considered the principle of the separation of powers essential to the protection of individual liberty. Therefore, the President was given the veto power over legislation passed by Congress; Congress was given the right to impeach the President, judges, and other civil officers; and the courts assumed the power to declare unconstitutional, and hence of no force, laws enacted by Congress.)

Criticism of the Check and Balance System. — The principle of checks and balances in government is not held in such high esteem to-day as it was a century ago. The people no longer fear the officers whom they elect every few years. They admit that mistakes or evil designs of one department might be checked by another, but they have also come to realize that well-planned, honest policies of one department can be checked by the officers of another department if the latter are unfavorable to them.

Moreover, many laws passed by the legislative department which are theoretically good, work badly when enforced by the executive department; while, conversely, the executive department is always in need of practical laws which the legislative department refuses to enact. In England, where the same persons are heads of executive departments and leaders in Parliament, this check on efficient government does not exist.

There are times when our government comes to a standstill because the departments cannot agree upon a certain policy.) The ideas of any one of the departments might work well if vigorously pushed forward; but when there is a difference of opinion between the legislative and executive departments, a political "boss," good or bad, must mount the vehicle of state

and keep it moving. Since it has become necessary to have a boss it would seem well to be bossed by the President, who is elected by all the people; and is responsible to all the people every fourth year.

Constitutional Amendments. — The methods of amending the Constitution of the United States set forth in Article V are more difficult than those of any other nation. There are four formal ways of amending it.¹

First, an amendment may be proposed by a two-thirds vote of each house of Congress and ratified by the legislatures of three fourths of the States. All of the amendments have been adopted in this manner.

Second, an amendment may be proposed by a two-thirds vote of each house of Congress and ratified by conventions in three fourths of the States. The disadvantage of this method is the fact that there is only one opportunity in each State for its ratification; whereas, under the first method, if one legislature refuses to ratify, a subsequent one can do so. But when a legislature once ratifies, it cannot rescind.

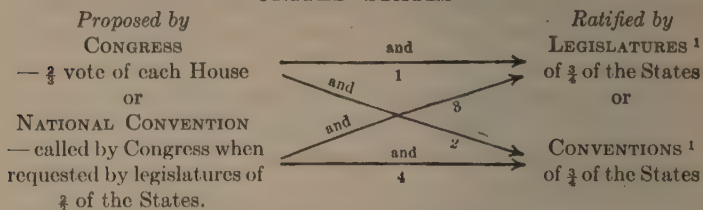
Third, an amendment may be proposed by a National Convention, called by Congress when requested by the legislatures of two thirds of the States, and ratified by the legislatures of three fourths of the States.

Fourth, an amendment may be proposed by a National Convention, called by Congress when requested by the legislatures of two thirds of the States, and ratified by conventions in three fourths of the States. The Constitution was originally adopted in this manner.

Referendum Denied. — In 1920 the United States Supreme Court ruled that State legislatures may not refer Federal amendments to the people but must pass upon them themselves. However a legislature may be influenced by an advisory vote of the people.

¹ See Article V of the Constitution, Appendix I, page 15.

FOUR WAYS OF AMENDING THE CONSTITUTION OF THE UNITED STATES



As soon as the government of the United States was established the first ten amendments were added to the Constitution and were known as the Bill of Rights. The eleventh amendment was added in 1798; the twelfth, in 1804. For sixty-one years no other amendment was added until the Civil War resulted in the ratification of the thirteenth (1865), the fourteenth (1868), and the fifteenth (1870). Since then hundreds of proposals have been introduced, but only five have been submitted to the States. The sixteenth amendment, providing for a Federal income tax, and the seventeenth, for the popular election of senators, were both ratified in 1913; the eighteenth providing for nation-wide prohibition was ratified in 1919; the nineteenth providing for woman suffrage was ratified in 1920; and another giving Congress the right to regulate the labor of children up to 18 years of age was submitted in 1924 but has not been ratified by three fourths of the States.

Thus is the Constitution formally amended. Owing to the difficulty of persuading two thirds of the members of Congress to propose an amendment and three fourths of the States to ratify it, the Supreme Court has been led to give an elastic construction to the Constitution.

Constitution Adaptable to Economic Changes.— While we have referred to the Constitution as an agreement, it is not an agreement in the sense of a contract which must be interpreted

¹ Congress determines whether an amendment is to be ratified by State legislatures or by State conventions.

exactly as the parties to the contract understood it when it was entered into. When the Constitution was drafted in 1787 there were only 4,000,000 scattered people in the United States, no large cities, few factories, no steamboats or railroads, no telegraphs, telephones, wireless or automobiles, no great monopolies ("trusts").

Things which concerned one State then now concern the entire Union, and as it has been very difficult to amend the Constitution, the Courts have allowed Congress to read a new meaning into the words which the framers of the Constitution used. So the Constitution instead of being a dead contract is a living agreement which changes with time and adapts itself to economic and social changes. One might say that the Elastic Clause of the Constitution, which gives Congress power to legislate on all matters "necessary and proper for carrying into execution" the enumerated powers, has kept the Constitution alive for more than a century of eventful years. (See page 112.)

The Unwritten Constitution. — The Constitution of the United States has been changed only nineteen times by formal amendments added to the Constitution; but to understand the real nature of our government to-day one must consider legislation, court decisions, party practices, the treaty-making power, and custom.

1. *Legislation.* — The Constitution has been supplemented by statutes. Good examples are statutes establishing Federal courts; statutes creating the administrative departments, boards, and commissions; and the statute determining the line of succession to the presidency following that of the Vice President.

2. *Court Decisions.* — Jefferson once said that John Marshall and the Supreme Court were engaged in making a constitution for the government. He was right. The great body of American law is not to be found in our written Constitution. It is unwritten in a legal and constitutional sense and is to be found in the decisions of our courts. The doctrine of implied powers,

which says that the National government has powers that are incidental to certain enumerated powers, was set forth by the Supreme Court. For instance, from the power to regulate commerce have been deducted the powers to regulate immigration, passengers passing from one State to another, navigable waters between States, and the communication of ideas by telegraph, telephone, or wireless from State to State.

The Constitution does not expressly bestow upon the Supreme Court the power to invalidate Acts of Congress which are in its opinion contrary to the Constitution. This practice of the Court, begun in the case of *Marbury v. Madison* (see page 66, note), was based on logic rather than any specific constitutional provision, and it has come to constitute the most notable feature of the American system of government.

The principles of taxation laid down in the Constitution have been considerably supplemented by judicial doctrines. The Due Process Clause of the Fourteenth Amendment has been so construed as to require that State taxes must be for a public purpose, that a tax may be regulatory in character (see page 122), and that neither the National government nor the State governments can tax the agencies or instrumentalities of the other. The States cannot tax the salaries of federal officials or federal property. Neither can the Federal government tax the bonds of the States or municipalities or the income from them, nor the salaries of State officials. These doctrines cannot be traced to specific constitutional provisions but are based on its general spirit and purpose.

3. *Party Practices*.—American political parties have converted the electoral college (see page 176) into a party agency for choosing a President on a party platform; and party primaries are as important as elections in choosing Congressmen. The President's Cabinet is not mentioned in the written Constitution but it is an important political agency, being composed of members of the President's political party. Procedure and policies of the House of Representatives are largely determined by caucuses.

4. *Treaty-Making Power.* — By treaty the President and Senate can exercise various powers not contemplated by the makers of the Constitution. For instance, the right to determine whether aliens shall own land is not mentioned in the Constitution and is naturally viewed as a reserved power of the States; but the right to own land in the United States has been extended to the aliens of various countries by treaty.

Congress has power to maintain a navy and has usually determined its size by the amount of money it appropriated for new ships and maintenance. But the Washington Naval Treaty and the London Naval Treaty restrict the size of our navy.

5. *Custom.* — Unwritten custom is sometimes stronger than written law. The written Constitution does not impose the two-term limitation upon the President, but long-established custom does. Again it is a well-established custom for the Senate to reject an appointment by the President if the senators of the President's party from the State where the appointee is to serve oppose the nominee of the President. This custom is so well established that it practically shifts the appointive power of postmasters and other Federal officers from the President to the senators. \

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QUESTIONS ON THE TEXT

1. Distinguish the meaning of confederate government from that of federal government.
2. What are the advantages of federal government in the United States?
3. What is meant by "local self-government"?
4. What is the Constitution of the United States?

5. Mention some powers which the National government may exercise.

6. What powers are reserved to the States? What amendment of the Constitution provides for this reservation?

7. Distinguish "delegated" or "Federal" powers from "residual" or "State" powers.

8. If a State law conflicts with a National law, which must yield to the other?

9. With whom does the final interpretation of the Federal law rest?

10. Explain the Supreme Court decision in the case of *Marbury v. Madison*.

11. What relation do States bear to one another except as specifically provided by the Constitution? Under what condition may they enter agreements among themselves? Give examples.

12. Why were Colorado and Utah interested in the Boulder Dam project?

13. May the Federal government build a dam within a State on an interstate stream without the consent of the State?

14. What is meant by the requirement that each State give full faith and credit to the public acts, records, and judicial proceedings of every other State?

15. Name some privileges and immunities which a citizen of one State is entitled to enjoy in every other State.

16. May a State impose upon hunters from another State a higher license fee than upon citizens of the State?

17. What is meant by *extradition*?

18. When may a State exercise its "police power" over commodities shipped in from another State?

19. The powers of the National government are separated among what three grand departments? What powers has each?

20. What is meant by the check and balance system? What are the arguments in favor of and against the system?

21. What Article of the Constitution explains the manner in which the Constitution may be amended? Explain in what four combinations of ways it may be amended.

22. How many amendments to the Constitution of the United States are there?

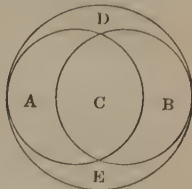
23. Is the Constitution a "dead contract" or a "living document"?

24. Explain five ways by which the Constitution has been modified other than formal amendment: first, legislation; second, court decisions; third, party practices; fourth, treaty-making power; and fifth, custom.

QUESTIONS FOR DISCUSSION

1. The United States is a representative, constitutional, federal republic. Consult unabridged dictionaries and explain fully the meaning of each of these words.

2. Let each pupil prepare a large chart showing the powers of government under our federal system. The accompanying figure adapted from Tiedman's "Unwritten Constitution" can be enlarged. Let the outer circle represent all the powers of government. In section *A* write all the powers exclusively delegated to the National government; in section *B*, all the powers reserved to the States; in section *C*, the concurrent powers, those which may be exercised by either the National or State governments; in section *D*, those denied to the National government; in section *E*, those denied to the State governments. Space may be economized by the use of figures. I.8.3. in section *A* would mean Article I, Section 8, Clause 3; Am. X in section *B* would mean Amendment X.



3. Give reasons why each power granted exclusively to the National government was so granted.

4. What legal complication would arise if the Federal law and system of courts were not supreme?

5. Oregon enacted a law making a doctor's certificate a prerequisite for obtaining a marriage license. Couples crossed into neighboring States and there married without a doctor's certificate and returned to Oregon to live. Could Oregon enact a law declaring such marriages illegal and prohibit the parties in question from living together within her boundaries?

6. In the government of one's self an individual is actuated by conscience, judgment, and will. Which of these is legislative, which executive, and which judicial?

7. Do you believe in the check and balance idea in government? To bring the problem close to home let us suppose your father the legislative department, your mother the judicial, and you the executive.

8. Power has a tendency to concentrate in the President if he becomes the party leader, in the Supreme Court, which may declare laws unconstitutional, or in Congress, which holds the purse strings. In which of the three would you consider the concentration of power the least objectionable? Give reasons for your decision.

9. Some people view our Constitution as a sacred document that should not be changed, but Thomas Jefferson expresses the contrary view in the following words: "Some men ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age [of the Revolution] well. I belonged to it and labored with it. It deserved well of its country. It was very like the present, but without the experience of the present; and forty years of experience is worth a century of book reading; and this they would say themselves were they to arise from the dead." Are these words more or less true to-day than when they were spoken? Why?

10. The water of the Colorado River will produce many times as much per acre when used in the Imperial Valley of California as it will in the mountain States. Is this fact an argument for the States rights or the nationalistic theory of government?

11. In Congress various proposals have been made to amend the methods of amending the Constitution:

(a) That Congress propose amendments by a bare majority vote instead of a two-thirds vote in each House.

(b) That amendments be proposed either by Congress or by the legislatures of a majority of the States voting within a period of five years.

(c) That amendments be ratified at the regular biennial elections by a majority of people voting on the amendment in two thirds of the States.

(d) That amendments be ratified at the regular biennial elections by a majority of people voting on the amendment in three fourths of the States.

Do you consider any of these proposals an improvement over the present methods of amending the Constitution? Would any one seriously suggest proposing amendments by a petition of a million voters and ratifying them by a bare majority vote of all the people in the United States? The makers of the Constitution were unwilling to trust every Tom, Dick, and Harry voter with the amendment of the Constitution. Were they right or wrong?

12. An editor commenting upon popular amendment of the Constitution writes: "The Constitution should without doubt express the popular will; yet it should stand for stability. We need some protection against the constant assaults on our peace by cranks, theorists, altruists, and all the other 'ists.'" What does the editor mean?

13. The following proposed 20th amendment was submitted to the States by a two-thirds vote of Congress in June, 1924:

Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age.

Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by Congress.

Would you have your State legislature vote to ratify this amendment?

14. Wild game and fish are property of the State, therefore a State may impose higher hunting and fishing licenses upon non-residents than upon its own citizens. Do you think the Supreme Court was justified in permitting higher hunting licenses for non-residents while not permitting higher business licenses?

15. In Reno, Nevada, one can obtain a divorce in six weeks on the ground of incompatibility of temperament. When the United States Constitution was adopted, marriage and divorce were considered matters of State concern. There was no Reno, Nevada. If there had been it would have required months of hardships to reach there. Now it is merely a matter of hours from any part of the United States. Do you think Congress should be given power to legislate regarding marriage and divorce? How could Congress obtain this power?

16. In the Tigris-Euphrates Valley nations were built by conquest. The conquered were enslaved or made to pay tribute; and as the conquerors lived on the fruits of the conquered in Oriental luxury they became effeminate and were conquered by more virile neighbors.

The Roman Empire conquered but extended citizenship to freedmen. However, the principle of representation was not applied to its immense territory; the idle rich lived from the labor of slaves, and the idle poor of Rome were fed by the Imperial treasury. Rome fell.

Great Britain expanded by conquest and by peaceful methods. It gave citizenship and also representation to the Welsh, Scotch, and Irish. It abolished slavery.

The United States was formed by peaceful means; added the principle of federation to those of citizenship and representation. It abolished slavery.

What beneficial results have come from our States federating? Has it promoted peace? Unity of language? Security? Economic opportunity? Transportation? Communication of ideas? Has it helped the Ford Factory? The buyer of a Ford car?

CHAPTER V

THE LEGISLATIVE DEPARTMENT

Congress. — The legislature of the United States is called the Congress. It consists of a House of Representatives and a Senate. The House represents the National principle, because its members represent the people directly in proportion to population; and the Senate represents the Federal principle, because its members represent the States, each State having equal representation. Article V of the Constitution provides that "no State, without its consent, shall be deprived of equal suffrage in the Senate." Without equal representation in the Senate such small States as Rhode Island, Delaware, and Maryland would not willingly have become members of the United States.

The advantages derived from a Congress composed of two houses are: (1) The minority is protected against the majority. (2) The one acts as a check upon the other. Through this check system a bill passed in the heat of passion by one house can be submitted to the cool judgment of the other. (3) One large house elected for a short term can express the wishes of the people, while the other house elected for a long term and small enough for deliberate debate can carefully weigh and consider them. (4) The press of our country has a better opportunity to point out the defects of a bill before it is acted upon by the second house.

Thomas Jefferson, who possessed great faith in "the voice of the people," was in France when the Constitution was framed. Upon his return, while taking breakfast with Washington, he opposed the two-body form of legislature, and was disposed to twit Washington about it. At this time Jefferson poured his coffee from his cup into



UNITED STATES CAPITOL.

Dome

Senate

House

his saucer. Washington asked him why he did so. "To cool it," he replied. "So," said Washington, "we will pour legislation into the Senatorial saucer to cool it."

Recently it has been argued that it is not in keeping with democratic institutions for Nevada, for instance, with 91,058 inhabitants to have as much legislative power in the Senate as New York with more than one hundred times as many (12,588,066). If New York were represented in the Senate proportionately with Nevada there would be 278 New York senators. To this argument Woodrow Wilson replied:

"These critics are entirely wrong in assuming . . . that the newer, weaker, or more sparsely settled parts of the country have less of an economic stake in its general policy and development than the older States and those which have had a great industrial development. Their stake may not be equal in dollars and cents, but it is probably greater in all that concerns opportunity and the chances of life. There is a sense in which the interest of the poor man in the prosperity of the country is greater than that of the rich man: he has no reserve, and his very life may depend upon it. The very life of an undeveloped community may depend upon what will cause a rich community mere temporary inconvenience or negligible distress."

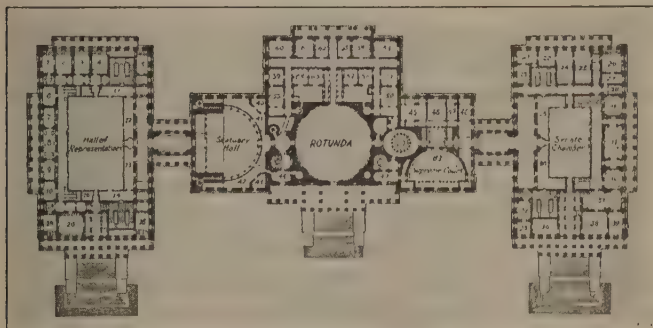
A country so extensive as ours, and representing such a great variety of social, economic, and political conditions, would not have held together without equal representation of the States in the Senate.

Sessions of Congress.— Each Congress is numbered consecutively from the first term, which began March 4, 1789. The term of the Seventy-second Congress extends from March 4, 1931, to March 4, 1933.

There are two regular sessions of each Congress, which are commonly designated as the "long" and the "short" session. The long session begins on the first Monday in December of the odd-numbered years and lasts until some time in the following spring or summer. The short session begins on the same date in the even-numbered years and lasts until March 4 following, when the term of all representatives expires. Prior to

1853 the short session ended at midnight, March 3, but at the present time all business transacted between midnight of the third and noon of the fourth is dated the 3d of March. Also, if business is pressing at noon of March 4, the clock is turned back.

The President may call extra sessions of Congress. President Hoover called such a session for April 15, 1929, to consider protective tariff and farm relief legislation.



PRINCIPAL FLOOR OF THE CAPITOL.

Each number indicates a room, *e.g.*, rooms 1, 2, 3, and 4 are occupied by the Committee on Appropriations, and number 40 is the room of the President.

The House of Representatives. — *Membership.* — The House of Representatives is the more numerous body of Congress. The Constitution directs Congress to determine the membership after each census, and the number allotted to each State must be in proportion to its total population,¹ except that a State is entitled to at least one member.²

¹ The fourteenth amendment declares that whenever a State shall limit the right of its adult male citizens to vote, except for crime, its representation in Congress shall be proportionately reduced. This provision has never been enforced, and some statesmen claim that it has been superseded by the fifteenth amendment.

² A territory is represented in Congress by one delegate, the Philippine Islands by two Resident Commissioners, and Porto Rico by one. Any one of these may take part in debate, but none of them can vote.

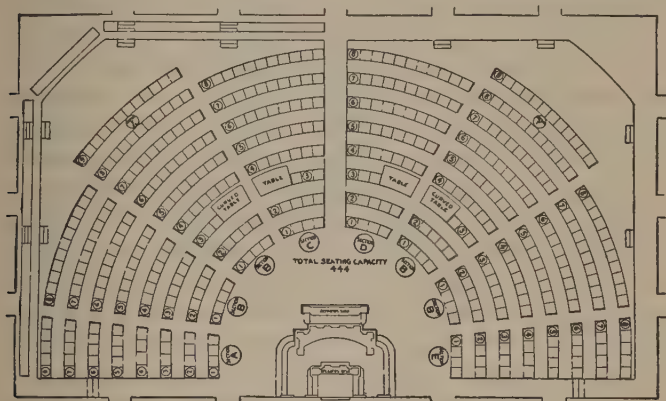
Each decennial census, except that of 1920, has been followed by a new apportionment; and the membership of the House has been increased at each apportionment except that of 1840 and that of 1930. The membership increased from 105 after the census of 1790 (one to 33,000 inhabitants) to 435 after the census of 1910 (one to 211,877 inhabitants). The figure 435 remained unchanged after the census of 1920 and no new apportionment was made. The Constitution requires Congress to determine the membership after each census, but there is no authority that can compel Congress to pass a bill.

Mode of Apportionment. — According to the Constitution each State is entitled to at least one representative. After the 1910 census the number of representatives, if more than one, to be allotted to each State was found by dividing the population of the State by a certain number, called the “congressional ratio.” For example, the congressional ratio fixed by Congress after the census of 1910 was 211,877. The population of Maine, by that census, was 742,371; and the division gives a quotient of 3, with a remainder, or fraction of a ratio, of 106,740 — called a “major fraction” because it is more than half of the ratio. After the census of 1910 all major fractions were counted, so Maine was given 4 representatives.)

By 1920 it was generally felt that the membership of the House should not be increased beyond the 435 figure. To reapportion on the basis of 435 members meant the loss of members for many States, therefore Congress was unable to agree upon any apportionment following the 1920 census. But to prevent a recurrence of this difficulty Congress enacted a law in 1929 intended to insure a reapportionment after subsequent censuses.

By this Act of Congress passed in 1929 the President is directed to transmit to Congress in December of each census year the population figures for each State, and the number of representatives to which each State would be entitled under an apportionment of the then existing number of representatives made in each of the following manners: (1) by the method used in the last

preceding apportionment,¹ (2) by the method of major fractions,¹ and (3) by the equal proportions method.² If this Congress fails to apportion representation by March 4, the Clerk of the House must, according to the method used in the last preceding apportionment, send to the governor of each State a certificate of the number of representatives to which his State is entitled.



HALL OF REPRESENTATIVES.

Election of Representatives. — The time, place, and manner of electing representatives are determined by Congress, but the Constitution provides for two-year terms of office and that any person may vote for them whom the State permits to vote for members of the most numerous branch of the State legislature. In 1872 Congress enacted that representatives should be chosen

¹ Following the census of 1930 Congress took no action before March 4, 1931; therefore the membership of the House remains at 435, and the Clerk of the House notified the State Governors of the new apportionment based upon the method of major fractions which was the method used at the last preceding apportionment.

² The ratio for apportionment was 282,241. Eleven States gained from one to nine members and twenty-one States lost from one to three members. (See Appendix, page 30.) Rural States lost representation and States with large urban centers gained as a rule.

by written or printed ballots, and since 1899 voting machines have also been permitted. In 1873 it enacted that congressional elections should be held uniformly on the Tuesday following the first Monday of November every even-numbered year.¹ But in case of a vacancy in any State the Governor thereof may call a special election.²

During the first fifty years of our Union the States were permitted to elect their representatives as they chose. The method of electing them by districts early became popular, but some States elected all members at large,³ which made it possible for a State with a small Democratic majority to elect all Democratic members. This was clearly unrepresentative, and in 1842 Congress prescribed that thenceforth all members should be chosen by districts. The district system tends to give representation to the minority party; but, as the States were laid out into districts by the State legislatures, the districts were so arranged that the majority party continued to have a great advantage.)

By an Act passed in 1872, Congress required that the congressional districts be of contiguous territory and contain as nearly equal populations as practicable. The requirement that all territory of a district be contiguous was observed to the letter but not always in spirit. For instance, in South Carolina the first district of the 1890 apportionment was shaped like two arrow heads which merely touched at the points.

In 1911 Congress amended the Act to read "contiguous and compact territory." But some legislatures have not paid much attention to the word "compact." The requirement that population be as nearly equal as practicable has been frequently

¹ By a special provision of Congress Maine is permitted to hold her congressional election in September.

² Congress has power to control State election officials in the execution of State election laws if national officials are being elected. Thus for corrupt practices the United States courts may send them to Federal prisons.

³ *At large* means from the entire State. Each voter expresses as many preferences as there are congressmen to elect from the State.

violated. For instance, in Pennsylvania the Twelfth Congressional District has a population of 444,409 while the Fifteenth District, which surrounds it on two sides, has a population of 205,084, or less than half, according to the 1930 census.)

Gerrymandering. — The scheme resorted to by an unfair legislative body to lay out congressional or other districts so as to secure a majority of voters for the party in power in the greatest possible number of them is known as “gerrymandering.” This can sometimes be done by collecting as many voters of the minority party as possible into one district so as to make other bordering districts safe for the majority party.

For instance, Figure A, on this page, represents a State with four congressional districts, each consisting of 75,000 voters. In districts 1 and 2 the Republicans have a majority whereas in districts

<p>1</p> <p>50,000 REP. 25,000 DEM.</p>	<p>2</p> <p>60,000 REP. 15,000 DEM.</p>
<p>3</p> <p>40,000 DEM. 35,000 REP.</p>	<p>4</p> <p>38,000 DEM. 37,000 REP.</p>

A

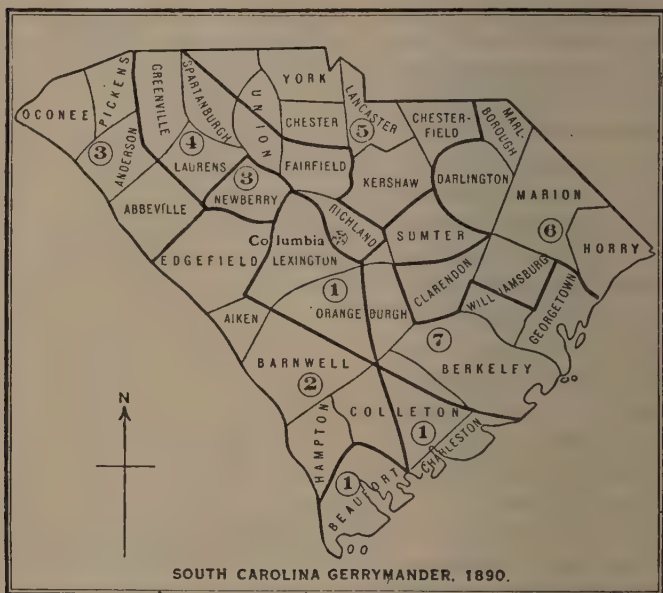
1	2	3	4
45,000 REP. 30,000 DEM.	40,000 REP. 35,000 DEM.	50,000 REP. 25,000 DEM.	47,000 REP. 28,000 DEM.

B

3 and 4 the Democrats have a majority, but in the entire State the Republicans have a majority of voters and therefore elect the majority of the members of the State legislature. This Republican State legislature redistricts the State as shown

in Figure B, having gerrymandered it so that the Republicans have a majority of voters in districts 1, 2, 3, and 4.

The following map shows how the districts of South Carolina were skillfully arranged in 1890 so as to throw large blocks of the Republican negro vote together, the populations varying from 134,000 in the first district to 217,000 in the seventh.



The scheme of unfair apportionment of districts is called "gerrymandering" from Elbridge Gerry of Massachusetts. In 1812, when Gerry was governor of Massachusetts, the Republican legislature re-districted the State in such a manner that one district had a dragon-like appearance. It was indicated on a map of Massachusetts which hung over the desk of a Federalist editor. A celebrated painter added with his pencil a head, wings, and claws, and exclaimed, "That will do for a salamander!" "Better say Gerry-mander," growled the editor.

Qualifications of Representatives. — A member of the House must be a man or woman twenty-five years of age, at least seven

years a citizen of the United States,¹ and an inhabitant of the State in which he is chosen, but not necessarily of the particular district. In practice, members are inhabitants of their districts, though in New York City a member of Congress has been elected by a district in which he did not live. If this practice should become general there would be many more able men from whom to select congressmen.

The House is judge of the elections, returns, and qualifications of its members and has excluded persons for various reasons. For instance, in 1919 and again in 1920 a majority of the House excluded Victor L.

Berger, Socialist of Wisconsin, on the ground of seditious utterances and disloyalty during the War. Two thirds of the House may expel one of its members for any reason it may think fit.

The Senate. — *Membership.* — The Senate is the smaller body of Congress, and is composed of two members from each State. As there are now forty-eight States there are ninety-six senators.

Term of Senators. — Senators are chosen for a term of six years, one third retiring every second year. By thus dividing



¹ Ruth Bryan, daughter of William Jennings Bryan, married a British subject named Owen in 1910 and resided in England until 1919, when she and her husband returned to the United States and resided in Florida. In 1925 Ruth Bryan Owen became a naturalized citizen of the United States. In 1928 she was elected to Congress from Florida. Her election was contested on the ground that she had not been seven years a citizen just before her election. In 1930 the House Committee on Elections decided that she had been seven years a citizen, including her citizenship before her marriage. Hence she was allowed to retain her seat in the House.

senators into three classes the presence of too many new and inexperienced members is avoided.

Election of Senators. — Until the Seventeenth Amendment was ratified in 1913 senators were elected by State legislatures. Now at the regular November election of every even-numbered year, one third of the senators are elected directly by the people and are sworn into office when the new Congress assembles.¹ Each senator is elected from his State at large. All persons qualified to vote for members of the House of Representatives may vote for senators.

Qualifications of Senators. — A senator may be a man or woman, at least thirty years of age, nine years a citizen of the United States, and an inhabitant of the State which sends him to Congress. The Senate, like the House, is judge of the qualifications of its members and may exclude a member by a majority vote.² Also, like the House, the Senate may expel a member for any cause by a two-thirds vote.

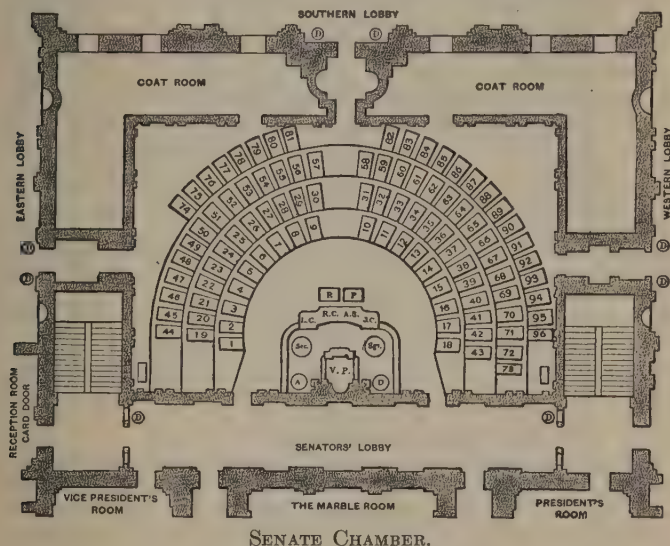
Special Functions of the Senate. — The Senate performs three special or non-legislative functions, two of which are executive and the third judicial. They are as follows:

(1) The Constitution makes the approval of the Senate necessary to the validity of all appointments made by the President, unless otherwise provided. The reason for requir-

¹ Only one senator is elected from a State in any one year. Though when a vacancy occurs in the Senate the governor of the respective State must call a special election unless the legislature empowers him to make a temporary appointment.

² In 1912 Mr. Lorimer of Illinois was excluded by a majority vote, being elected as a result of bribes paid to Illinois legislators in behalf of his election. He had been seated, although under protest, and had voted on many measures before the committee on elections could investigate. In 1928 Mr. Smith of Illinois was excluded because \$203,000 expended in his behalf in the primary election was contributed by officials of public utility corporations whose rates were regulated by the Illinois Commerce Commission, of which Mr. Smith was a member. In 1930 Mr. Vare of Pennsylvania was excluded because of the expenditure of \$785,000 by his faction in the 1926 direct primary election, in which it is thought that stuffing ballot boxes and voting dead men worked to his advantage.

ing the approval of the Senate was to prevent any errors or abuses of the chief executive, but in practice the senators claim the right of dictating to the President regarding appointments to such Federal offices in the States as postmasters, Federal judges, Federal attorneys, and revenue collectors.



Under the custom known as “senatorial courtesy” the Senate will usually ratify or refuse to ratify an appointment according to the recommendation of the senators from the State in which the appointee resides. If neither senator from that State is a member of the party in power the President will confer with a representative or some politician from the State. The Senate may, by a majority vote, consider appointments in secret sessions, called “executive sessions.”

(2) All treaties are made by the President with the “advice and consent” of the Senate. For a short period after the adoption of the Constitution the advice of the Senate was asked

before the President prepared a treaty, but now he merely consults with the Senate Committee on Foreign Relations and with influential members of both parties. The Senate may reject a treaty in full or may suggest amendments to it. Treaties may be considered in "executive session."¹

(3) The Senate acts as a court of impeachment to try the President, Vice-President, or any other high civil officer.² A two-thirds vote of the members present is necessary to sustain an impeachment. This removes the guilty person from office, and may deprive him of holding any other Federal office if the Senate so desires. (See Appendix, page 12, note 32.)

Compensation of Congressmen. — Congressmen, unlike other officers or employees of the government, fix their own salary, and the only limit upon the amount is the President's veto and the possibility of not being reelected. Senators and representatives have always received equal salaries. Each senator and representative now receives: (1) a salary of \$10,000 per annum; (2) twenty cents a mile going and coming by the shortest route for each regular and usually for special sessions; (3) publication

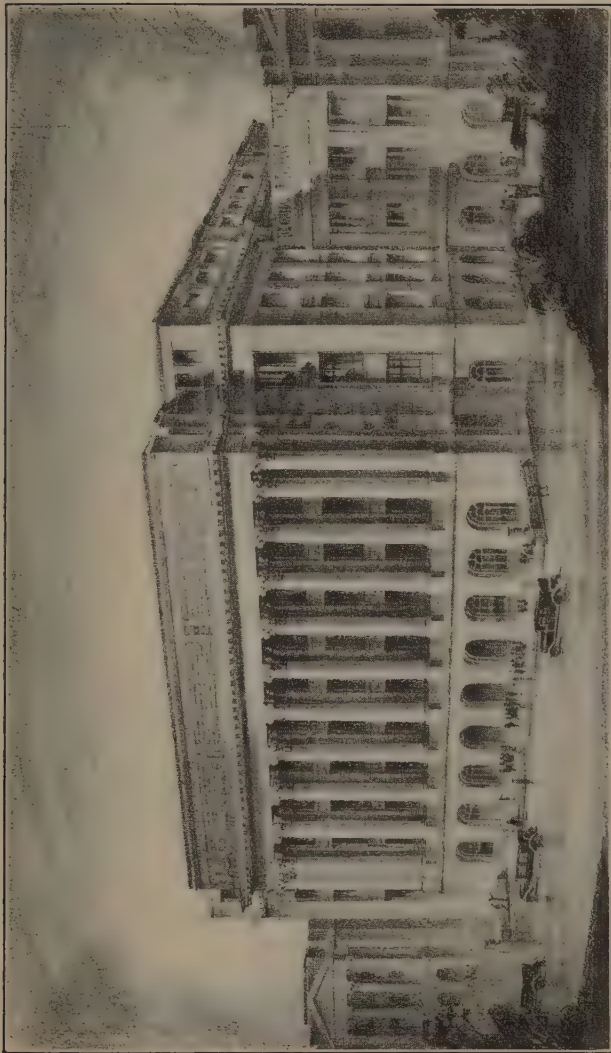
¹ Previous to 1929 appointments and treaties were regularly considered in closed sessions. But a Senate rule adopted that year reads, in part: "Hereafter all business in the Senate shall be transacted in open session unless the Senate in closed session by a majority vote shall determine that a particular nomination, treaty, or other matter shall be considered in closed executive session. . . . Provided that any senator may make public his vote in a closed executive session."

² Senators and representatives are not impeached, since either house can expel a member by a two-thirds vote. Military officers are removed by court-martial.

³ The salaries of congressmen from time to time have been as follows:

1789-1815, \$6 per diem while in attendance.	1866-1871, \$5000 per annum.
1815-1817, \$1500 per annum.	1871-1874, \$7500 per annum.
1817-1855, \$8 per diem.	1874-1907, \$5000 per annum.
1855-1866, \$3000 per annum.	1907-1925, \$7500 per annum.

⁴ When a special session of Congress merged into a regular session Roosevelt allowed mileage for both sessions; under like conditions Wilson denied mileage; so during Harding's administration and again during Hoover's when special sessions were about to merge with regular sessions Congress adjourned a few days and thus made sure of the mileage.



NEW HOUSE OFFICE BUILDING.

This building supplements the main House Building which can be seen just to the left. They communicate by underground passage.

and free distribution of speeches ;¹ (4) free postage for official business, called the "franking privilege" ; (5) free offices ; (6) an allowance for stationery ; and (7) an allowance for clerk hire.

In 1816 nearly all congressmen lost their seats because they increased the salary to \$1500 a year, including the term partly served. In 1873, upon the last day of the session, Congress passed a bill increasing the compensation of its members from \$5000 to \$7500 per annum, and made it apply to the two years past. The next Congress repealed the measure. In 1907, during the last session of the term, Congress, by a standing vote, increased the salary from \$5000 to \$7500 — *after it had been defeated by a yea and nay vote*. In 1925 it was increased to \$10,000. This did not take effect until the next session. In view of the costs of campaigning, the costs of living in Washington, and the uncertainty of tenure, this salary is moderate.

Privileges of Congressmen. — Congressmen are free from arrest during their attendance, and in going to and returning from the sessions, in all cases except treason, felony, and breach of the peace. As persons are no longer imprisoned for debts the privilege is of little value. "Treason, felony, and breach of the peace" include all indictable crimes.

Another privilege of congressmen is freedom of speech during debate in Congress. That is, they may not be sued for any statement made on the floor of Congress. This privilege includes the right to circulate copies of their speeches delivered in Congress. But a congressman is not privileged to defame any person in a newspaper article.

The reason for granting congressmen immunity from suit for anything they may say during debate in Congress, is to encourage them to state all the facts they know in regard to matters that vitally concern the people's welfare.

¹ Many speeches which are not actually delivered on the floor of Congress are published in the Congressional Record, of which each congressman receives sixty copies free. He may obtain any number of reprints of his speech by paying the Government Printing Office the actual cost of reprinting.

REVIEW

OUTLINE OF CONGRESS

MEMBERS	HOUSE OF REPRESENTATIVES 435	SENATE 96
Qualifications . .	25 years of age, 7 years a citizen of the United States, inhabitant of State where elected. Other qualifications determined by the House.	30 years of age, 9 years a citizen of the United States, inhabitant of State where elected. Other qualifications determined by the Senate.
Elected by . . .	Votes of Congressional Districts.	Votes of State.
Term	Two years.	Six years.
Salary	\$10,000 plus allowances.	\$10,000 plus allowances.
Sole Powers . .	(1) To impeach civil officers. (2) To originate revenue bills. (3) To elect a President if no candidate has a majority of the electoral votes.	(1) To try persons impeached. (2) To confirm appointments made by the President. (3) To ratify treaties. (4) To elect a Vice-President if no candidate has a majority of the electoral votes.
Convene (in regular session) . .	First Monday in every December. <i>and day</i>	First Monday in every December.
PRESIDING OFFICER	SPEAKER	VICE-PRESIDENT ¹ OF THE UNITED STATES CALLED "PRESIDENT OF THE SENATE"
Qualifications . .	Member of House. ²	The same as for President.
Elected by . . .	Members of the House.	Presidential electors or Senate.
Term	Two years (often re-elected).	Four years.
Salary	\$15,000.	\$15,000.
Vote	The same as any other member of the House.	Only in case of a tie vote.

¹ A president *pro tempore* of the Senate is elected by the Senate to preside in the absence of the Vice-President.

² According to custom based on parliamentary and colonial precedents.

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QUESTIONS ON THE TEXT

1. What Article of the Constitution treats of Congress? V
2. Congress consists of what two houses? What does each house represent?
3. What are the advantages of a two-body legislature? no yes
4. When does the long session of Congress begin? When does the short session end? even no
5. How is the membership of the House of Representatives determined? Of how many members does it now consist? Each represents how many people? 280, 675
6. Do any States have more senators in the Senate than representatives in the House?
7. When are congressional elections held? How long is it after the election until the members take their seats? What is the term of office?
8. Explain *gerrymandering*.
9. What are the qualifications for membership in the House?
10. Of how many members does the Senate consist? What is the term of office? 6 yrs.
11. When are senators elected? Who may vote for them? What are the qualifications for office?
12. By what vote of either house may a member be excluded? Expelled? all
13. What special functions are performed by the House? The Senate?
14. What business of the Senate is sometimes transacted behind closed doors? Why? X 100 ~ 1-1
15. What salary do congressmen receive? What other compensation do they receive?
16. What special privileges have congressmen? May a congressman defame the character of a person in a newspaper article?

QUESTIONS FOR DISCUSSION

1. Do you favor equal representation of States in the Senate? Would your answer be the same if you lived in New York? In Nevada?
2. The number of any Congress can be determined by subtracting 1789 (the year the 1st Congress met) from the year in which the Congress

of which the number is desired ends, and dividing the remainder by 2, because a Congress lasts two years. As a Congress always ends upon an odd-numbered year the number from which 1789 is subtracted is necessarily an odd number. By what number is the Congress now in session known? 73-74

3. The first woman representative, Miss Rankin, was elected from Montana in 1916. How many women are now in Congress? (See Congressional Directory or World Almanac.) Give arguments for and against electing women to Congress.

4. How are the political parties represented at present in the Senate and in the House of Representatives?

5. Is your State gerrymandered?

6. To how many representatives is your State entitled?

7. In what congressional district do you live? Who is your representative? How long has he been in Congress? What party does he represent? (See Congressional Directory or World Almanac.) What stand has he taken in regard to important legislation recently before Congress? (See Congressional Record.)

8. Discuss in regard to your senators the same matters that you have considered in regard to your representative.

9. Before 1913 senators were elected by State legislatures. They are now popularly elected. (See Amendment XVII.)

In 1930 Mrs. McCormick, candidate in Illinois for United States senatorship, said that she favored National Prohibition but would vote according to the wishes of the majority as shown by an advisory referendum held in Illinois at the same election. The popular election of senators seems to have forced them into compliance with majority opinion. Do you think senators should respond to majority opinion as readily as representatives do or should the Senate be a deliberative body where unpledged senators might investigate, debate, and decide according to personal convictions?

10. Usually thirteen months elapse after a Congressman is elected before he takes his seat. A month after his election the old Congress convenes for its short session. The many congressmen who were defeated in this election are called "lame ducks" because their feathers have fallen and they are limping through this session half-interested because their main job is to find another job. They are thought to be especially subservient to the President in the hope that he will appoint them to worth-while positions.

Would you favor amending the Constitution so that the new Congress could begin its work January 2d following the election?

Would you also favor having a President inaugurated in January

following his election — that is, just as soon as Congress has time to count the electoral votes, or themselves elect the President if the election is thrown in the House?

11. Members of the House of Commons in England receive a salary equivalent to \$2000 a year; those of the House of Representatives in the United States, \$10,000. Which members are more likely to voice the will of the people?

12. Men of eminent ability in the United States engaged in other professions and commercial pursuits earn much more than we pay the members of the House of Representatives. What are the advantages and disadvantages of a high salary for a legislator?

13. In 1914 Senator Root franked 715,062 copies of his speech opposing free tolls for American vessels passing through the Panama Canal, believing free tolls to be in violation of a treaty with Great Britain. In 1928 a senator franked 556,000 copies of his speech denouncing a well-known candidate for the presidency. Give arguments for and against the unrestricted use of the "franking privilege."

14. A Super-Senate Plan was once suggested by Frank A. Vanderlip. He suggested that a constitutional amendment create a new arm of the government, with about thirty members chosen at large for terms of ten years, three members retiring every year. Half of the members would sit continuously in Washington, and the other half would be abroad carrying America's good-will and obtaining good-will for us. This would build an intelligent body to deal with foreign affairs. This plan would take the treaty power from the Senate, but the President's relations to foreign affairs would remain unchanged. He would initiate treaties, appoint the Secretary of State, and appoint ambassadors and ministers. Their confirmation would lie in the hands of the Super-Senate. What arguments can you advance for or against this suggestion?

15. "Whether justly or unjustly, we have signally lost the esteem of our fellow men, because our Government as a government has refused to take part in the rehabilitation of Europe — refused because of the ever-existing conflict between the Executive and the Senate.

"Our system of government as it exists to-day negatives action. The Senate should be given the power to make treaties, or it should be shorn of the power to obstruct by a two-thirds vote. It is an absurdity that we can make war by a majority vote of Congress but that it should take a two-thirds vote of the Senate to make peace. The Versailles Treaty had a handsome majority but failed by six votes of obtaining the necessary two thirds. And upon that slender thread the fate of nations has hung.

"The Executive and not the Senate should have the treaty-making power and he should not be embarrassed by having to obtain for ratification two thirds of the Senate. As the law rests, the President may have a party majority with him, and yet be unable to carry out the mandate to govern which the people gave him. The Senate itself should inaugurate the change, for surely it should be content with a majority rule. This single change in our machinery of government would go far towards removing the menace of being regarded as a nation apart from the rest of the world." — Colonel Edward M. House.

Why do you favor or oppose this proposed constitutional change?

16. In the United States we choose representatives from *geographical* districts. In Russia the Soviet System has a *vocational* basis of representation. There people of different employments vote separately — miners in one group, iron-workers in another, soldiers in a third, and so on. Advance arguments for one of these systems, and against the other. Which is most likely to result in "log-rolling" methods of legislation? (See page 170.)

CHAPTER VI *Start for Test* THE POWERS OF CONGRESS

To facilitate the study of this very important chapter, assignments have been indicated.

ASSIGNMENT I: EXPRESSED AND IMPLIED POWERS

Interpretation of the Constitution. — When our thirteen States united to form the United States of America they limited Congress to certain expressed powers enumerated in the Constitution, and to those “necessary and proper” to carry the expressed powers into execution. Persons who favor strong State governments and a weak National government would restrict the powers of Congress to the bare letter of the Constitution, while those who favor a strong National government would interpret these powers liberally, thus increasing the legislative powers of Congress.

Fortunately for the National government Chief Justice Marshall, who dominated the Supreme Court during the formative period of our government (1800–1835), gave a *liberal construction* to the Constitution, thereby permitting Congress to do many things which Jefferson and other *strict constructionists* would have reserved for the States. Such men as Washington, Hamilton, Lincoln, and Roosevelt have favored a liberal construction, believing that the government of the United States can govern more efficiently and with less annoyance to the people than the numerous States whose different laws often conflict.

I. EXPRESSED POWERS

Expressed Powers Interpreted. — The expressed powers of Congress are enumerated very briefly; and without courts to decide exactly what they mean and what they include, Congress

would often be tempted to exceed its authority. To illustrate, the Constitution (Art. I, Sec. 8, Cl. 3) provides that "Congress shall have power to regulate commerce with foreign nations and among the several States, and with the Indian tribes." These words are very general, and Federal courts have decided more than 2000 cases in explanation of them, and several hundred of these cases have been appealed and decided and supported by lengthy opinions of the Supreme Court of the United States.

The Power to Tax and the Power to Regulate Interstate Commerce are the two most important expressed powers of Congress. In fact, they are so important and require so much space and time to do justice to them that a separate assignment is given for each of them. These assignments follow immediately after this one.

Power to Make Money. — Congress has power to coin money and issue paper money, but the States are forbidden to do either.¹

Before the Revolutionary War the English shilling was the recognized unit of value, and the restraining hand of the Mother Country kept issues of depreciated paper money within bounds. But when the States became independent of the Mother Country the radical legislatures of certain States printed the States' names on paper and called it money.² As always happens, bad

¹ The Constitution forbids the States to coin money, emit bills of credit (paper money), or make anything but gold and silver coin a tender in the payment of debts.

² The Rhode Island Legislature of 1786 issued a large amount of paper money, and in six months a dollar was passing for 16 cents. John Fiske thus describes the situation: "The farmers from the inland towns were unanimous in support of the measure. They could not see the difference between the State making a dollar out of paper and a dollar out of silver. The idea that the value did not lie in the government stamp they dismissed as an idle crotchet, a wire-drawn theory, worthy only of 'literary fellows.' What they could see was the glaring fact that they had no money, hard or soft; and they wanted something that would satisfy their creditors and buy new gowns for their wives, whose raiment was unquestionably the worse for wear. On the other hand, the merchants from Providence, Newport, and Bristol understood the difference between real money and the promissory

money drove good money from circulation ; and each State had paper money of an uncertain and declining value. This variety of money made local business uncertain and interstate business intolerable.¹

Because of these conditions the Constitution Makers gave Congress the exclusive right to coin money, and the United States Supreme Court has given it the right to issue paper money, as implied in its power to borrow.

Power to Borrow Money. — The Constitution gives Congress power to “ borrow money on the credit of the United States.” When there are unusual undertakings, like the construction of the Panama Canal or the World War, the usual revenues are not adequate and Congress borrows money. The ordinary method employed by the government for borrowing money is the sale of bonds.² Bonds which are used by governments and corporations when they borrow money are like promissory notes given by individuals when they borrow money — a promise to pay a

notes of a bankrupt government, because they had to pay real money to European firms from whom they bought their stocks of goods.

The penalty for not accepting this paper money in payment for goods or debts was a fine of \$500 and the loss of suffrage. When a merchant refused to accept the paper the matter came to court, and the Act was declared contrary to the State constitution and hence void. A special session of the legislature dismissed the judges, but their decision remained.

While the Rhode Island Legislature was attempting to force merchants to accept a 16-cent dollar for 100 cents' worth of goods the State was given the nickname of Rogues' Island.

¹ The Spanish silver dollar became a sort of standard of value, but even this was not accepted at the same value in all States.

² There are two forms of bonds — coupon and registered. A twenty-year coupon bond has attached to the bottom, like stamps, forty small engraved coupons, and every six months the owner cuts one coupon which represents his semi-annual interest, and has it cashed at the bank as he would an ordinary check. Holders of registered bonds receive their interest by checks. A registered bond can be replaced if lost but a coupon bond cannot.

The United States Treasury usually issues treasury certificates or notes or bills as evidence of indebtedness when it needs money for a short time. Thus, in 1931, when Congress appropriated more money than was in the Treasury, Secretary Mellon secured temporary loans at interest rates as low as one half of one per cent per annum.

certain sum at a specified time. The United States has been able to borrow money at a rate of interest as low as two per cent.

The right to borrow also implies the right to issue legal tender paper money. During the Civil War Congress issued paper money called "Greenbacks" which were really non-interest bearing notes. This issue amounted to a forced loan.

The constitutional right to borrow makes borrowing a Federal function, hence Federal bonds cannot be taxed by the States. The right to borrow also implies the right to establish National Banks to assist the government in securing loans.

Bankruptcy. — Bankruptcy laws provide for the distribution of a debtor's assets among his creditors when he is unable to discharge his obligations in full, and for the discharge of the debtor from further legal liability for debts incurred prior to the commencement of bankruptcy proceedings.

Certain kinds of property are not seized from a bankrupt so that he may be able to support and educate his family and begin life anew.

The Federal Bankruptcy Act provides for voluntary and for involuntary bankruptcy: (1) natural persons or corporations who voluntarily institute bankruptcy proceedings, and (2) natural persons or corporations who, owing debts amounting to \$1000 or over, may be forced into bankruptcy proceedings by action of their creditors. Any natural person, and any corporation except a bank, a railroad, an insurance company, or a municipal corporation, may institute voluntary bankruptcy proceedings. Involuntary proceedings may be commenced against any natural person except farmers and wage-earners, and against any corporations except the four just listed as also excluded from voluntary bankruptcy.

Over bankruptcy the States and Federal government have concurrent powers. During most of the nineteenth century bankruptcy was left to the States. Since the Federal Bankruptcy Act of 1898 covers the entire country, large businesses with interests in several States go to the United States District Court for

bankruptcy proceedings. A bankrupt, with merely local creditors, can at less expense carry his case to the State court. If any State bankruptcy laws conflict with Federal laws, the State laws are invalid.

Naturalization. — Naturalization is the process by which citizens of one country become citizens of another, and Congress has the power "to establish a uniform rule of naturalization." Under the immigration laws certain persons are not allowed to enter the United States, and naturally such persons are not permitted to become naturalized. This applies to Orientals; and the Chinese, the Japanese, the Burmese, and the East Indians have been refused naturalization. (See Chapter XXXI.)

Postal Service. — Congress has power to establish post offices and post roads.¹ The government may condemn land for post-office sites and could condemn it for post roads should it become necessary. Of course a fair price must be paid the owner for his property. A State is not permitted to establish a postal system, nor is an individual. For instance, express companies could not make a business of carrying first-class mail.

Under its power to establish post roads, Congress has made it a criminal offense to obstruct or retard the passage of mails "knowingly and willfully." Examples of this crime are beating an engineer and firemen without whose services the train could not be moved, and placing obstructions on the track of an electric railway engaged in carrying the mails. Thus the criminals have committed a Federal offense as well as a State offense. It is illegal for railroad strikers to interfere with trains carrying mail; and following the Pullman Strike in Chicago, in 1894, Eugene Debs was sent to the Federal penitentiary because he persuaded the strikers not to move the trains.

States are not allowed to interfere unreasonably with the mails. A State is not allowed to tax automobiles used exclusively for

¹ "Post roads" are all letter carrier routes in towns and cities, railroads and canals, and all the waters of the United States during the time that mail is carried thereon.

the mails, nor the gasoline used by the cars. Neither may it require mail trains to make unreasonable stops. On the other hand, the United States does not protect those who use the mails to defeat the police regulations of the State made to protect the health, morals, safety, and welfare of its citizens. Thus even before the Eighteenth Amendment a State could forbid the soliciting of orders for intoxicating liquor, even through the mails.



NEW POST OFFICE IN CHICAGO.

Under its right of eminent domain, the National government can condemn as much property as needed for a post office. Hence it was able to spread this building over enough land to create a landing field on top of the building.

Nor does the United States protect carriers when they endanger the public. For instance, a mail carrier may be arrested, while on his route, for murder; and a city might arrest and punish a mail carrier for driving recklessly through crowded streets.

Copyrights and Patents. — Congress has the power “to promote the progress of science and of useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

A Copyright is the exclusive right to an author or his assignee to print and publish his literary or artistic work. The protection is granted by the government for a period of twenty-eight years; renewable for another twenty-eight years. The right

extends to maps, charts, engravings, sculpture, dramatic or musical compositions, and pictures, as well as books. In 1912 the Supreme Court decided that moving pictures of *Ben Hur*, a copyrighted book, was a dramatization, and hence an infringement of the copyright. (See page 323, note.)

A *Patent* is a grant of the exclusive right to manufacture, use, or sell a new and useful invention for a period of years—17 at present for a patent of invention. The term may be extended only by special Act of Congress. (See pages 293–297.)



TEST WEIGHT CAR FOR TESTING TRACK SCALES.

Most bulk freight has to be weighed on railroad track scales.

Weights and Measures.—Congress has established the pound, gallon, bushel, yard, and their subdivisions as standards of weights and measures, and has made the metric system optional. The basic standards of these, by which all other measures throughout the United States are tested and corrected, are deposited in the Bureau of Standards.

In 1901 Congress established the Bureau of Standards, which has grown wonderfully in size, scope of work, and importance.

It has been called the "miracle-performing agency of the government" and also the "house of accuracy," though it is a large campus instead of one house. It determines the measures of our groceries, the specifications of the doctor's thermometer, and the formulas of the druggist's prescription. Its machines



BUREAU OF STANDARDS MACHINE FOR MEASURING THE BREAKING
RESISTANCE OF DISHES.

weigh the crossing of the letter "t" with a pencil mark, and the strength of the concrete, brick, and steel for construction purposes. It contains the famous Riefler clock which is true to the fifth of a second a month. It tests and corrects surveyors' tapes.

The Bureau of Standards does not act as an agency of compulsion, but as an agency of service. For instance, it encourages the uniform manufacture of such things as standardized bolts that will fit machines of all makes, and standardized tops of milk bottles which have such a tendency to stray from home and become mixed.

Judicial Powers. — Congress has power to establish Federal courts, to define and punish piracy on the high seas, to define and punish offenses against the law of nations, and to punish counterfeiters of Federal money and securities.

Power over Federal Districts. — Congress has power to legislate for territories of the United States, the District of Columbia, forts, dockyards, National parks, and so on.

The Federal government can acquire necessary property by right of eminent domain,¹ but it cannot exercise governmental authority over property acquired within a State unless purchased by the consent of the legislature of the State in which it is located. When title is acquired by purchase and the consent of the legislature, the Federal jurisdiction is exclusive: the Federal laws replace the State laws and the Federal courts replace the State courts. West Point Military Reservation was acquired with the consent of the New York Legislature, so it was held that a civilian committing robbery on a road through West Point Academy grounds could not be convicted in a State court — only in the Federal court.

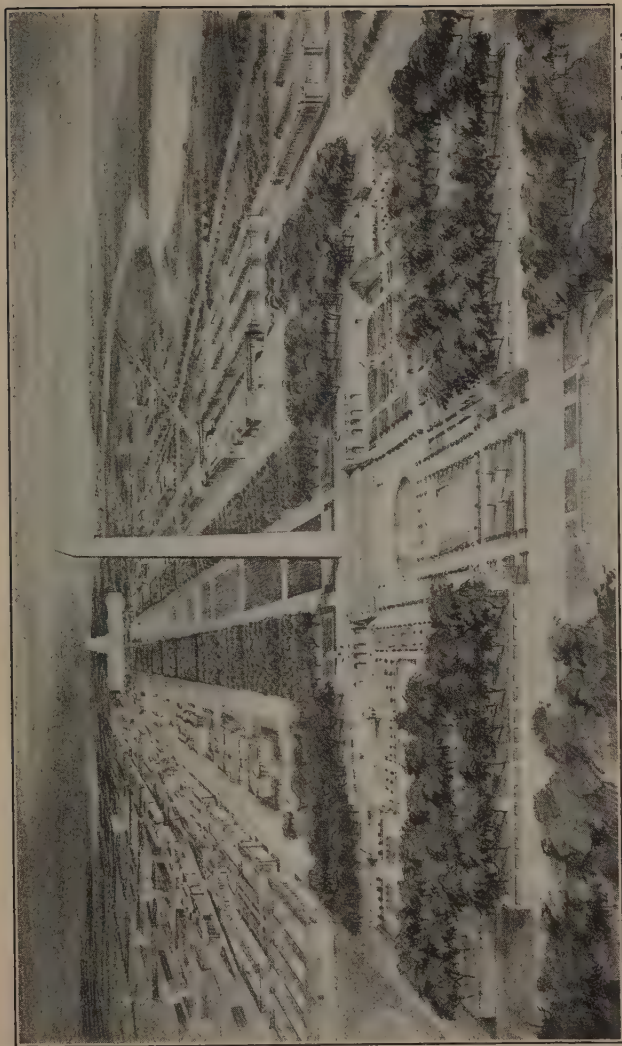
War Powers. — Congress has power to declare war, to grant letters of marque and reprisal, to make rules concerning captures on land and water, to raise and support armies, to provide and maintain a navy, to make laws governing land and naval forces, to provide for calling out the militia, and to provide for organizing, arming, and disciplining the militia.

End.

II. IMPLIED POWERS

The Elastic Clause. — The last clause of Article I, Section 8, of the Constitution, known as the “elastic clause,” or the “necessary and proper clause,” gives Congress power “to make all laws which shall be necessary and proper for carrying into execution the foregoing (expressed) powers.” Chief Justice

¹ The right of eminent domain is the right that a government exercises in taking private property for a public purpose by paying the owner a fair price for it.



Courtesy of Woodward and Lothrop.

THE MALL VISTA AS IT IS BEING DEVELOPED.

The Mall, as gradually being reconstructed, will give an unobstructed vista from the Lincoln Memorial to the Capitol. This reconstruction of Washington is the more easily accomplished because Congress governs this Federal District of Columbia.

Marshall decided that "necessary and proper" means "convenient or useful." Therefore, Marshall concluded that this "necessary and proper" clause *implies* that Congress might pass any laws which are "convenient or useful" in carrying into execution those laws which Congress has a specific, undisputed right to enact.



Acme Photos.

DIRIGIBLE LOS ANGELES ANCHORED TO U. S. S. PATOKA AT BALBOA,
PANAMA.

Subsequent Supreme Court judges have construed the "necessary and proper clause" very liberally; they have practically changed the "and" in "necessary and proper" to "or," so that the Constitution really reads "necessary or proper." With this clause thus interpreted Congress has been able to exercise wider and wider powers.

The original Constitution gave the United States express power to punish only four crimes — counterfeiting, felonies committed on the high seas, offenses against the law of nations, and treason; but other laws that Congress has express power to enact would

be worthless if it could not punish the breaking of them, therefore Congress has the *implied* right to punish all crimes against the United States.

The Constitution does not specifically allow Congress to charter a National bank, but the great Chief Justice Marshall decided that the right is *implied* in the power to collect taxes and to borrow money. State banks were not carefully managed and a National bank was "convenient and useful" for the safe-keeping of the taxes collected.

The Constitution does not expressly provide for river and harbor improvements or the building of canals, but the power is *implied* from the expressed power to maintain a navy and regulate commerce.

The power of eminent domain is not expressly granted to the United States, but the expressed powers to establish post offices and to establish courts *implies* the necessity of post office buildings and court houses, therefore the United States can condemn land for these purposes by the right of eminent domain.

If our Constitution could be more easily amended the meaning of its clauses need not be "stretched" to meet new conditions, but most of the *implied* powers would become *expressed* powers through Constitutional amendments.

OUTLINE OF THE EIGHTEEN POWERS VESTED IN CONGRESS BY ARTICLE I, SECTION 8

Expressed Powers:

I. PEACE POWERS:

1. To lay taxes.
 - a. Direct (not used since the Civil War, except income tax).
 - b. Indirect.
 - Customs = Tariff.
 - Excises = Internal revenue.
2. To borrow money.
3. To regulate foreign and interstate commerce.
4. To establish naturalization and bankruptcy laws.
5. To coin money and regulate its value; to regulate weights and measures.

6. To punish counterfeiters of Federal money and securities.
7. To establish post offices and post roads.
8. To grant patents and copyrights.
9. To create courts inferior to the Supreme Court.
10. To define and punish piracies and felonies on the high seas; to define and punish offenses against the law of nations.
11. To exercise exclusive jurisdiction over the District of Columbia; to exercise exclusive jurisdiction over forts, dockyards, National parks, Federal buildings, etc.

II. WAR POWERS:

12. To declare war; to grant letters of marque and reprisal; to make rules concerning captures on land and water.
13. To raise and support armies.
14. To provide and maintain a navy.
15. To make laws governing land and naval forces.
16. To provide for calling forth the militia to execute Federal laws, suppress insurrections, and repel invasions.
17. To provide for organizing, arming, and disciplining the militia, and for governing it when in the service of the Union.

Implied Powers:

18. To make all laws necessary and proper for carrying into execution the foregoing powers.

For example — To punish the breaking of Federal law.

To establish National banks.

To improve rivers, harbors, and canals.

To condemn property by eminent domain.

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QUESTIONS ON THE TEXT

1. In what Article and Section of the Constitution are most of the *expressed* powers of Congress enumerated?

DIVISION OF POWERS BETWEEN THE NATIONAL GOVERNMENT AND THE STATES

POWERS OF GOVERNMENT	FEDERAL ¹		CONCURRENT ⁴		STATE	
	{ Expressed ² -- (Article I, Section 8, Clauses 1-17; Amendment 16)		{ Implied ³ -- (Article I, Section 8, Clause 18)		{ Reserved ⁵ -- (Amendment 10) -- Example: police powers --	
	{ Denied -- (Article I, Section 9; Amendments 1-11; 13)		{ (Examples: taxation, prohibition, eminent domain)		{ Denied -- (Article I, Section 10; Amendments 13-15, 18, 19)	
					{ Health Morals Safety Welfare	

¹ The terms "national" and "delegated" mean the same as "federal" in this connection.

² The term "enumerated" (numbered) means the same as "expressed" in this connection.

³ The term "resultant power" is used when a power is not clearly implied from any one "expressed power" but results from several expressed powers. The term "inherent in sovereignty" is sometimes used for powers neither clearly expressed nor clearly implied but necessarily belonging to a sovereign state. Recognizing new sovereign states and deporting aliens are examples of powers inherent in sovereignty.

⁴ The term "concurrent power" means one which may be exercised by either the Federal government or the State government or both.

⁵ The term "residual" is often used in the sense of "reserved."

2. Upon what clause of this Section is the theory of *implied powers* based?

3. What two general views are there as to the proper method of construing the Constitution? *strict & liberal*

4. Name some statesmen who have favored a liberal construction of the Constitution.

5. Name one or more strict constructionists.

6. What are the two most important expressed powers of Congress?

7. May a State coin money or issue paper money?

8. Why was Congress given the exclusive right to coin money?

9. How did Congress get its right to issue paper money?

10. What experience did Rhode Island have with paper money shortly before the Constitutional Convention drafted the Constitution?

11. Under what constitutional power did Congress issue "Greenbacks"?

12. What two kinds of bonds are there? How do they differ?

13. Under what circumstances are treasury certificates issued?

14. What is meant by *bankruptcy laws*? What two kinds are there? To whom does each kind apply? If State and Federal bankruptcy laws conflict, which will prevail?

15. What does *naturalization* mean? Who may not be naturalized in the United States?

16. What is meant by post roads? How may the United States acquire sites for post offices?

17. Is it a crime to retard the mails? Have States and cities any right to interfere with the mails?

18. What is a copyright? A patent? For how many years does each protect the author or inventor?

19. Under what power of Congress was the Bureau of Standards created? What are its functions?

20. What war powers has Congress?

21. What determines whether the Federal courts have jurisdiction over offenses committed in forts or other United States properties?

22. What is meant by *implied powers*? Give examples.

23. What is meant by the *elastic clause*? What other name is given to this clause?

24. Name a synonym for each of the following words: Federal? Expressed? Implied? Reserved?

QUESTIONS FOR DISCUSSION

1. The English Parliament has power to do "anything but make a man a woman or a woman a man." Why has Congress only about

eighteen enumerated powers and those necessary and proper to carry the enumerated powers into execution?

2. Do you favor a "liberal construction" or a "strict construction" of the Constitution? Why?

3. Would the commercial progress in our forty-eight States be promoted or retarded if each State had its own monetary system? Would the commercial progress of the world be promoted if all countries united in a uniform monetary system under the League of Nations or the International Bank?

4. Would the foreign trade of the United States be promoted if we should adopt the metric system of weights and measures, which is the system used in Latin America and much of the world?

5. The United States Government has always been an honest borrower. Eleven of our States have at one time or another repudiated debts. Therefore, Congress could borrow money for the States or their divisions at 1% or 2% less than the latter. How much would this difference amount to in 33 years? (See Question 9, page 325.)

6. In 1931 the United States Government borrowed money for short periods at rates of interest as low as $\frac{1}{2}$ % per annum. At the same time most governments had to pay 5%, 6%, or 7%; and many could not borrow at all. How do you account for this difference?

7. A century ago it was discovered in Pennsylvania that the annual cost of supporting debtors in prison was greater than the total debts they owed. To-day one who is unable to pay his creditors may, through bankruptcy, be released from his debts. Do debtors' prisons or bankruptcy proceedings stimulate the expansion of business?

8. Why do many men who owe more than the value of their property refuse to apply for voluntary bankruptcy?

9. Why would you favor or oppose a constitutional amendment giving Congress power to regulate *marriage*? *Insurance*? Exclusive power to create commercial corporations with more than \$1,000,000 capital?

10. Would you favor an amendment to our naturalization law providing that a naturalized citizen shall forfeit his citizenship and be deported if he is convicted of violating a criminal law of the United States?

11. A patent gives a person a monopoly. Socialists claim that anybody should be permitted to manufacture a patented article who will pay the patentee a uniform royalty determined by the government. Advance arguments for and against this claim.

12. It is unlawful to use a copyrighted musical selection in a public performance for profit without the consent of the copyright owner.

If the owner of a copyright permits one manufacturer to make musical

records, any other manufacturer may do so by paying a royalty of two cents on each record to the copyright owner. Composers object to this Federal law, claiming that it discriminates in favor of the performer whose rendition cannot be copied without his consent.

In 1925 the United States 6th Circuit Court of Appeals forbade a manufacturer of radio products to broadcast a copyrighted musical composition entitled "Dreamy Melody" without permission of the copyright owner. Argue for or against each of the above laws and decision.

13. Are the following powers *expressed* or *implied*: Giving heads of departments authority to make regulations? Creation of corporations? Compelling witnesses to attend legislative investigations? Maintenance of lighthouses? Building the Panama Canal?

14. Our government has built many large post offices to relieve unemployment. Many of these offices are larger than needed. Would it be better to build public libraries and public hospitals? Should money for these purposes be appropriated on the basis of population unconditionally, or should it be apportioned among the States on condition the States or localities bear half the cost?

THE POWERS OF CONGRESS

ASSIGNMENT II: TAXATION

Taxation. — The power conferred upon Congress to levy and collect its own revenues is almost absolute, except (1) that no duties may be levied upon exports; and (2) that there are three expressed and two implied limitations. (See chart on page 122 for these five limitations.)

Export Taxes Prohibited. — The reason for the Constitutional prohibition against the export tax is plain. Suppose Congress could levy an export tax on cotton amounting to five cents a pound. The English buyers of cotton would pay to the American growers no more than to those of other countries. Therefore, in order to compete, the American grower would have the tax to pay. As all cotton is grown in a few of the Southern and Southwestern States, these States would have the entire tax to pay.

Taxes Must Be for the General Welfare. — The Constitution gives Congress power to collect taxes for the general welfare. And President Jackson vetoed a bill appropriating money for a National highway from Washington City westward, claiming that it would not serve all parts of the country and would therefore not be for the "general welfare." However, the courts have allowed Congress the widest discretion in determining what constitutes the "general welfare," and Congress has recently paid for an elaborate boulevard through Virginia from Washington City to Mount Vernon.

Direct Taxes, except the Income Tax, Must Be Apportioned among the States on the Basis of Population. — Taxes which are actually borne by the person upon whom they are imposed,

POWERS OF FEDERAL TAXATION

Congress May Levy Every Kind of Tax	{	Except an Export Tax	{	Taxes must be for the general welfare. Direct taxes (except the income tax) must be apportioned among the States on the basis of population. Indirect taxes must be uniform throughout the U. S.	{	Excise tax Land tax Capitation tax Customs tax Corporation tax Estate tax States Counties Districts Cities Towns	{	20 cents a bushel on contracts for the sale of grain for future delivery 10% on annual net profits of factories, etc., employing children
		but						
		Subject to 3 expressed limitations						
		and						
	{	Subject to 2 implied limitations	{	Congress cannot tax the agents or instrumentalities of States or their subdivisions, unless engaged in non-governmental functions. Congress cannot tax merely for the purpose of regulation if the Act clearly shows on its face that it was not intended for revenue. ¹	{	Employees Real Estate Bonds Acts held void imposing tax of	{	

¹ Protective tariff rates have so far never been declared void because so high that they exclude and hence produce no revenue. The power of Congress in respect to tariff is strengthened by its power to regulate foreign commerce.

such as capitation taxes and taxes on land and buildings, are direct taxes. Such taxes have been levied by the United States government only in case of war emergency — five times in all. The United States government has not levied a direct tax outside the District of Columbia since the Civil War, except an income tax which need not be in proportion to population since the adoption of the Sixteenth Amendment to the Constitution of the United States.

Since wealth is not equally distributed among the States, a direct tax which must be levied in proportion to population would be unjust to certain States.¹⁾

The Income Tax is expressly permitted by the Sixteenth Amendment. Congress varies the rate according to the needs of the government. The tax has always been progressive; that is, the greater one's net income the higher the rate.

The income tax imposed by the revenue Act now in force varies from $1\frac{1}{2}\%$ on the first \$4000 of net income to about $25\%⁶³$ on income exceeding \$100,000. The law exempts \$1500 for a single person; \$3500 for a married person living with husband or wife, or the head of a family²; and \$400 for each dependent under eighteen years of age, or dependent incapable of self-support because of old age or of mental or physical defects. In determining one's taxable income he may deduct interest that he has paid on debts; taxes that he has paid, and contributions for religious, charitable, scientific, literary, or educational purposes.³ Because of the generous exemptions and deductions allowed, ~~less~~ ^{only} ~~than 3 per cent~~ of the people of the United States have any individual Federal income tax to pay. (See page 220.)

¹ If the United States government should levy a tax on real property, it would merely ask each State to raise its designated portion along with its own property tax.

² If the wife and husband both have incomes, they can report jointly and take the \$3500 exemption, or they can report separately and each take one half of the \$3500 exemption.

³ The amount deducted because of contributions is limited to 15% of the net income.

The Corporation Tax. — Most kinds of corporations are now taxed ~~12~~ per cent of their net income.¹

Indirect Taxes Must Be Uniform throughout the United States. — Indirect taxes are those that can be shifted from the person who pays them to other persons, and are therefore indirectly paid by the people generally. To illustrate, such taxes are those which are levied on commodities before the commodities reach the persons who consume them but are ultimately paid by the consumers as a part of the market price. Examples of indirect taxes are the excise tax, the customs tax, the corporation tax, and the estate tax.

The constitutional requirement that indirect taxes must be uniform throughout the United States means that these taxes must be the same on the same commodities in all parts of the country. To illustrate, the Federal excise tax on the manufacture of tobacco, playing cards, or oleomargarine must be the same in New York as it is in New Mexico. The import duty on cut diamonds, which is now 10 per cent *ad valorem*, must be the same at the port of New York as it is at the port of New Orleans.

Excises, popularly known as internal revenue duties, are taxes on commodities produced in the United States, such as the stamp tax on tobacco, playing cards, and oleomargarine. (See page 220.) The manufacturer pays the tax to the government when he buys internal revenue stamps to stick on each barrel or package, but ultimately the consumer pays the tax, since the manufacturer adds the cost of the stamp to his selling price.

Customs, popularly known as tariff duties, are taxes on commodities imported from foreign countries. (See page 220.) The tariff rates are frequently changed, the most recent tariff act being that of 1930. The rates vary on different articles, now

¹ Even before the Sixteenth Amendment made the individual income tax constitutional, a tax on the income of corporations was valid as an indirect excise tax, or license, upon the special privilege of operating as a corporation.

being as high as eighty per cent on many. Articles entering the United States without tariff are said to be on the "free list" — *e.g.*, Bibles, raw silk, coffee, bananas, and agricultural implements. Articles taxed at a low rate are said to be taxed "for revenue only" — *e.g.*, diamonds, chamois skins, and raw hair. Articles taxed at a high rate are said to be taxed "for protection" — *e.g.*, sugar at 1.7 cents a pound, tomatoes at 3 cents a pound,



UNITED STATES CUSTOM HOUSE, NEW YORK.

U. & U.

beef at 6 cents a pound, eggs at 10 cents a dozen, wool at from 24 to 37 cents a pound, wheat at 42 cents a bushel, shoes at 20% of their value, silk at 60%, knit rayon wear at 45 cents per pound plus 60% of their value, and jewelry at 80%. (Obscene literature or literature advocating forceful resistance to any law of the United States is excluded.)

The tax is often so high that certain articles are not shipped into this country at all. Then, of course, no revenue is collected, but the manufacturer of the articles in this country can charge more for these articles than otherwise, since foreign competition is removed. The tax is "for protection" to home industry.

A traveler may bring into the country without tax articles acquired abroad for personal or household use to the value of \$100.

*The Estate (Inheritance) Tax*¹ now in force was enacted in 1926. It is a progressive tax varying from 3% on net estates of \$100,000 to 20% on estates in excess of \$20,000,000 for residents of the United States.² A resident's estate of less than \$100,000 is not taxed under the Federal estate tax.

If an estate or inheritance tax is paid to a State, a credit is allowed on the Federal estate tax up to as high as 80 per cent of the tax paid the State. For example, if the Federal tax is figured at \$10,000 and \$8000 or more is paid to New York only \$2000 need be paid the Federal government. Also bequests to governmental, religious, charitable, and educational organizations are exempted from this tax up to a specified amount.

The estate tax is considered an indirect tax because it is on the privilege of bequeathing rather than on the property.

Congress Cannot Tax the Agents or Instrumentalities of the States or Their Subdivisions, Unless Engaged in Non-Governmental Functions. — The United States cannot tax the employees, real estate, bonds, or other governmental machinery of the States, counties, districts, cities, or towns. The power to tax is the power to weaken or destroy; therefore the United States cannot tax the agents or instrumentalities of the States and their subdivisions and the States and their subdivisions cannot tax the United States. (See page 122.)

By non-governmental functions are meant those not necessarily or ordinarily engaged in by a State or its subdivisions. These functions are therefore considered in competition with private businesses and may be taxed. For example, when it was legal to operate liquor saloons the State of South Carolina

¹ The tax upon the estate of one who dies might be levied upon the entire net estate before it is divided, and that is an "estate tax"; or the tax might be levied upon the portion inherited by each heir, and that is an "inheritance tax." The present Federal tax is an *estate tax*; most of the States have enacted *inheritance taxes*. An estate tax of course produces more revenue than an inheritance tax.

² If a non-resident dies owning property in the United States, it is taxed even if less than \$100,000. The tax on a non-resident estate of less than \$100,000 is 1% or 2%, depending upon the amount.

sold liquor at government dispensaries and claimed exemption from the Federal saloon license tax.) But the United States Supreme Court required the State to pay the tax for each dispensary because the sale of liquor is not a necessary or usual government function.

Congress Cannot Tax Merely for the Purpose of Regulation if the Act Clearly Shows on Its Face That It Was Not Intended for Revenue. — During the Civil War Congress established a National banking system, and desired to get rid of paper money issued by State banks. So it imposed a tax of 10 per cent on the circulation of such money, a rate so high as to drive it out of circulation.¹

In 1902 Congress levied a tax of ten cents a pound on oleomargarine artificially colored to look like butter. When the manufacturers of oleomargarine protested that it was not a tax but was practically destroying an industry over which Congress did not constitutionally have control, the Supreme Court upheld the constitutionality of the law. The court refused to go into the motives which prompted Congress to enact the law, and upheld the law on the ground that Congress was constitutionally exercising its taxing power.)

The white or yellow phosphorus used in the manufacture of the old-fashioned match is very poisonous. Workmen in match factories often had their teeth fall out or their jaw bones decay, and many died from the poison. Matches made from other materials were a little more expensive. The Constitution does not give Congress power to regulate labor conditions directly; therefore, in 1912 Congress imposed a stamp tax of two cents a hundred on matches made of white or yellow phosphorus. As matches sell for one cent a hundred the phosphorus match industry was of course destroyed.

¹ In upholding the constitutionality of this law the Supreme Court said: "Having, in the exercise of undisputed constitutional powers, undertaken to provide a currency for the whole country, it cannot be questioned that Congress may, constitutionally, secure the benefits of it to the people by appropriate legislation." — *Veazie Bank v. Fenno* (1869).

In 1914 Congress laid a tax of \$300 a pound on the manufacture of opium to be used for smoking and in this way destroyed the industry by taxation.

It looked as though there was no limit on the power of Congress to regulate through taxation those industries which fall under State control and could not otherwise be regulated by Congress. So, in 1919, Congress passed a law imposing a ten-per-cent tax on any person or corporation employing child labor. But this was encroaching too far upon States' rights, and in the Child Labor Case decided in 1922 the Supreme Court said: "Taxes do not lose their character as taxes because of the incidental motive. But there comes a time in the extension of the penalizing feature of the so-called tax when it loses its character as such and becomes a mere penalty with the characteristics of regulation and punishment. Such is the case in the law before us." The court declared this law unconstitutional.

Taxation, in the form of tariff, has long been used to restrict or hinder the importation of various products in order to protect manufacturers in the United States from the competition of foreign manufacturers.

Ordinarily the only redress against high taxes on certain articles is the right of the voters to elect new congressmen who might repeal an objectionable tax law.

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See Bibliography at end of first assignment of this chapter; also Chapter X.

QUESTIONS ON THE TEXT

1. What restrictions are placed upon Congress as to its power of taxation?
2. What is the reason for prohibiting export taxes?

3. Does the constitutional requirement that taxes must be for the general welfare really impose much of a restriction upon Congress?

4. Why has not the United States levied any direct tax, except the income tax, since the Civil War?

5. Why is the income tax, which is direct, constitutional without being apportioned among the States?

6. How much income does a single person have to earn before he is taxed? a married person? If husband and wife both have separate incomes to what exemption are they entitled? How much exemption is there for each dependent incapable of self-support?

7. What are indirect taxes? What kinds of indirect taxes are there?

8. What is meant by the requirement that indirect taxes must be uniform throughout the United States?

9. Give some examples of the *excise tax*.

10. Name an article that enters the United States free of duty. One on which tariff for revenue is imposed. One on which tariff for protection is imposed.

11. What is meant by *ad valorem* tariff? By specific tariff?

12. Why is the Federal inheritance tax constitutionally considered an indirect tax? Why is it called an *estate tax*?

13. Why cannot the Federal government tax the agents or instrumentalities of the States? Why cannot the States tax the agents or instrumentalities of the Federal government? What do we mean by agents? By instrumentalities?

14. Explain to what extent Congress may tax for the purpose of regulation?

End

QUESTIONS FOR DISCUSSION

1. The United States pays subsidies to certain American steamship lines running between the United States and countries that otherwise would not have American lines. Is this money spent for the "general welfare"?

2. Would any constitutional question be raised if Congress should appropriate \$5,000,000 for a Library in Chicago? Would the constitutional question be different if a library appropriation were made for every State in proportion to population?

3. Are direct taxes or indirect taxes more just? Which are easier to collect?

4. When a high internal revenue tax was placed on tobacco the people of Virginia, who manufactured large quantities of tobacco, felt that they were being unjustly taxed. The tax has not been reduced, but complaints are no longer heard. Why?

5. How could Congress discourage the manufacture and sale of tobacco in the United States?

6. What is meant by an income tax? How much Federal income tax would a single man whose income is \$5000 have to pay?

7. The Revenue Act of 1924 provided that the amount of Federal income tax paid by corporations and individuals be open for public inspection. This law, called the "glass pocket law," was repealed by the Revenue Act of 1926. Give arguments for or against the law.

8. In 1931 President Hoover directed that individuals' Federal income tax reports be open to inspection to tax officials of States that have the income tax. Would you have done so?

9. Why is a State not allowed to impose an income tax on Federal employees? On the royalty income from patents? On government-owned post-office buildings?

10. Why was the tariff on champagne \$6.00 a gallon and that on cider only 5 cents?

11. Is a protective tariff a tax in proportion to ability to pay?

12. When the tariff on luxuries, *e.g.*, 60 per cent *ad valorem* on silk fabrics, is so high that scarcely any are imported, is it a tax on luxuries or merely a bounty to those who produce them in this country?

13. If Congress had not been given the power to regulate interstate commerce, and each of the States imposed tariff against the others, about how many miles of tariff walls would we have? What effect would this have upon a nation-wide product like the Ford car? Would the car be cheaper or more expensive?

14. The 1930 Tariff Act placed farm machinery on the free list. Therefore Mr. Ford manufactured tractors in Ireland and shipped them to the United States. Is this an argument for or against protective tariff?

15. The United States has a reciprocity treaty with Cuba which provides that dutiable goods from Cuba shall have a reduction of 20% and that American commodities dutiable in Cuba shall have a reduction varying from 20 to 40%, depending upon the article. Would you favor a tariff reciprocity treaty with Canada, each country making comparable tariff reductions?

16. Florida amended its constitution, forbidding a State inheritance tax. This was done to induce people of wealth to establish their residence in the State. To discourage States from bidding against each other by low taxes, Congress, in its Inheritance Tax Law of 1926, gave taxpayers a credit up to 80% of the amount of inheritance tax paid to any State. Florida questioned the constitutionality of this Act of Congress on the ground that the tax lacked uniformity because citizens

of Florida could not deduct inheritance taxes paid to the State since there was no such tax in the State. The United States Supreme Court decided against Florida's contention. What clause of the Constitution was interpreted in this case? Why do you suppose the Florida contention was rejected?

17. How much Federal inheritance tax would an American citizen have to pay if he received an entire estate worth \$100,000?

18. Would you favor leaving all inheritance taxes to the States? To the National Government? For the National Government to collect and distribute among the States?

19. The patriarchs of old were blessed with many children, and their private property immediately benefited a large number. The multimillionaires to-day are blessed with few children, and property from generation to generation tends to concentrate in a few hands. Does this condition make a high progressive income or inheritance tax more reasonable and expedient to-day than formerly?

20. Some people consider "swollen fortunes" an evil in a republic. If you think they are, would you favor higher income and inheritance taxes as a method of social adjustment?

21. In 1924 an amendment to the Constitution was proposed by the Ways and Means Committee expressly giving Congress power to tax State, county, district, city, and town bonds. Would you favor such an amendment?

22. If Congress should pass an Act imposing a tax of 10% of the net receipts of any chain store which works any employees more than eight hours a day, do you think the Act would be constitutional?

THE POWERS OF CONGRESS

ASSIGNMENT III. COMMERCE

Introduction. — The Constitution gives Congress power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.¹ This commerce clause of the Constitution has done more to develop a loose confederation into a strong Union than any other part of the Constitution.

When an American travels in Europe he is annoyed every few hundred miles at a national boundary where the train is delayed (perhaps for an hour) where he must show his passport (the visé of which may have cost several dollars) and where his baggage is gone through — and maybe taxed. When he returns to America and passes the Statue of Liberty and “goes through customs” he can travel in forty-eight States without delay, passport, or inspection or taxation of his baggage.

If an American wishes to sell automobiles in Europe, he must pay a high tariff duty, of different rates, in more than a dozen countries; and he must fight all sorts of annoying regulations imposed to give advantage to homemade cars. In our United States Mr. Ford finds a public with a purchasing power comparable to that of all Europe, without a cent of tariff to pay, and without other discriminatory regulations.

In brief, this commerce clause has given the citizens of the United States the greatest unrestricted market in the world.

¹ The framers of the Constitution viewed the Indian tribes very much as they did foreign nations, hence gave Congress power to regulate commerce with them. The Constitution makers also realized the importance of keeping “firearms” and “fire water” from the Indians. Later, when railroads were built, Congress had power to grant rights of way through Indian lands for the construction of railroads.

For whatever you have to sell you should thank your forefathers for this enormous market they have built for you.

I. FOREIGN COMMERCE

Exclusion of Imports. — Congress has “power to regulate commerce with foreign nations.” Under this power Congress has prohibited the importation of numerous articles — *e.g.*, diseased animals and plants, opium except for medical purposes,



Courtesy of U. S. Coast Guard.

COAST GUARD REMOVING A MENACE TO NAVIGATION.

The Coast Guard is often associated with the exclusion of smuggled dutiable articles, liquor, opiates, or immigrants, but it performs many other services.

obscene books, lottery tickets, adulterated and misbranded foods, articles having names or emblems simulating domestic trade marks, convict-made articles, white or yellow phosphorus matches,¹ and prize-fight films.

Embargo on Exports. — Congress also has power under this commerce clause to forbid the export of commodities. Thus it has prohibited the exportation of matches made of white or

¹ See pages 144–145.

yellow phosphorus because of the injury to American workmen who make them.

Congress has authorized the President at his discretion to prohibit the exportation of contraband of war ; and the President has from time to time placed an embargo on munitions of war for Mexico and Cuba to prevent them from falling into the hands of rebels against the regularly established governments.

Protection against State Interference. — The Supreme Court announced the Original Package Doctrine a century ago, which forbids a State to tax or exercise police power¹ over imports from foreign countries until the original package is once sold, broken open, or used. That means that a State cannot tax or interfere with the sale of Havana Cigars from Cuba until the regular shipping packages are opened or sold. If a State could tax or otherwise interfere with commodities in their original packages, coast States could collect revenue or otherwise forbid imports to reach interior States.

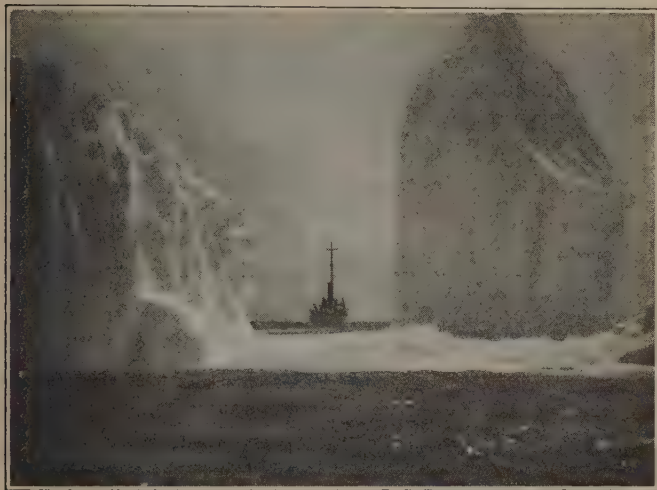
Regulation of Navigation. — Congress regulates shipping ; determines numerous conditions under which vessels may fly the American flag, such as requiring wireless equipment, life-preservers, life-boats, a definite limit to the number of passengers, and inspection of the ships ; prescribes how ships must enter and leave ports — *e.g.*, stop at quarantine stations for health inspection and have proper entry and clearance papers ; and imposes other requirements too numerous to mention.

Regulation of Foreign Communication. — The courts have interpreted “commerce” to include the communication of ideas as well as the exchange or transportation of commodities. Therefore Congress regulates cables, telegraph and telephone wires extending to foreign countries, all kinds of foreign wireless communications, and the importation of printed matter.

Regulation of Immigration. — The Constitution does not in so many words give Congress power to regulate immigration

¹ Police power is State power to regulate health, morals, safety, and general welfare.

except under the power to regulate foreign commerce. But since the courts consider the movement of people to be commerce, Congress excludes certain classes of aliens altogether, prescribes conditions under which others may enter, and provides for the deportation of undesirable aliens.



Courtesy of U. S. Coast Guard.

THE COAST GUARD WARNS TRANSATLANTIC LINERS OF ICEBERGS.

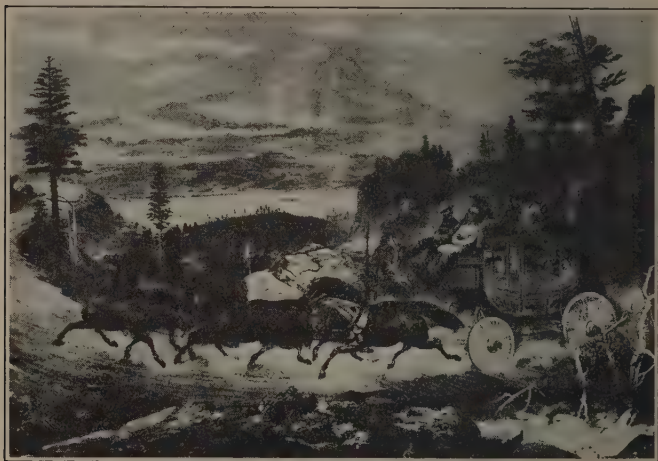
The center of this berg was blown up by the use of T.N.T. mines. This process shortens the life of the bergs after they reach the Gulf Stream.

II. INTERSTATE COMMERCE

Introduction. — Congress has power to regulate commerce among the several States. The strongest motive that led to the formation of our Union was the annoying taxes which each State placed upon the commerce of the others, hence the Constitutional Convention was prepared to give a liberal regulation of commerce to the central government.

When the Constitution was framed wagons or stagecoaches naturally needed very little regulation, and slow sailboats did

not present many interstate problems. The chief and perhaps the only purpose of this clause in the minds of the Constitution Makers was to prevent the States from interfering with the freedom of commercial intercourse among themselves: it referred to the articles to be transported rather than to the means of transporting them.



INTERSTATE STAGE COMPANY.

When stagecoaches furnished the fastest mode of travel, transportation needed little interstate regulation.

However, the Supreme Court decided that the power of Congress to regulate commerce could not be confined to the instrumentalities in use at the time of the adoption of the Constitution, but kept pace with inventions and with the growth of the country. Thus, by this liberal and progressive attitude of the court, Congress has been able to do many things through its "power to regulate commerce . . . among the several States."

Commerce Includes Navigation. — Thirty-five years after our government was established the Supreme Court was called upon to explain this commerce clause. In 1807 Fulton's steamboat

Congress Has Power to Regulate Interstate Commerce	Navigation	<ul style="list-style-type: none"> Regulates vessels that run from State to State Improves rivers, harbors, and canals Forbids competition of foreign vessels for coastwise trade May regulate boats on lakes wholly within a State
	Transportation	<ul style="list-style-type: none"> Railroads <ul style="list-style-type: none"> Continuous shipments partly by rail and partly by water Express companies and sleeping car companies Pipe lines, except for water and illuminating gas Steamboats <ul style="list-style-type: none"> Not regulated through the Interstate Commerce Commission Bus lines Aëroplanes
	Communication	<ul style="list-style-type: none"> Telegraph <ul style="list-style-type: none"> Wire Interstate Commerce Com. Telephone <ul style="list-style-type: none"> Wireless Department of Commerce Broadcasting Federal Radio Commission Correspondence schools Federal courts
	Persons	<ul style="list-style-type: none"> Walking across State line <ul style="list-style-type: none"> Riding across State line for business or for pleasure
	Commodities	<ul style="list-style-type: none"> May be excluded from interstate commerce Protected against unreasonable State interference Protected against unreasonable restraint of trade by monopolies
	Subject to incidental interference by States in the reasonable exercise of their "powers"	<ul style="list-style-type: none"> health morals safety welfare

made its first successful trip from New York to Albany; and the New York legislature gave him and his partner Livingston a monopoly to navigate the waters of New York State by steam for a period of years. A Mr. Ogden secured a permit for steam navigation from Fulton and Livingston and operated a line between New York City and the Jersey shore. One Gibbons, under the authority of a coasting license obtained from the



FULTON'S FIRST STEAMBOAT.

The Clermont.

United States government, began operating a competing line. Upon Ogden's petition the New York court enjoined Gibbons from continuing in business. An appeal was taken by Gibbons to the United States Supreme Court, thus presenting to that tribunal its first case under the commerce clause of the Constitution. Daniel Webster presented a masterly argument against the validity of the steamboat monopoly, and Chief Justice Marshall handed down a decision holding invalid the New York monopoly. This decision established for all time the supremacy of the National government in all matters affecting interstate and foreign commerce.

This case, known as *Gibbons v. Ogden*, decided that "commerce" is not only the purchase, sale, and exchange of commodities, but is also transportation, which includes navigation. Hence Congress has power to regulate vessels plying from State

to State and also the waters in which they navigate. Thus Congress requires vessels to be inspected, requires them to carry life-preservers, limits the number of passengers, and prescribes working conditions for the crews.

Congress appropriates money for dredging rivers and harbors, constructing canals, marking channels, and operating light-



YAQUINA LIGHT ON OREGON COAST NEAR NEWPORT.

Without fail Uncle Sam keeps this light burning to guide the seafarer on his way.

houses. It forbids obstructions in navigable streams; and a bridge, causeway, or dam cannot be built across navigable streams without the consent of Congress.

Congress forbids foreign vessels to carry freight or passengers from one port of the United States to another, thus protecting Americans engaged in interstate shipping against the competition of foreign vessels.

The regulatory power of Congress extends to all navigable waters which are used or are susceptible of being used for interstate commerce. Congress has authority over navigable streams running through two or more States, and also over those located wholly within one State but connecting with other navigable

waters so as to form a continuous channel of communication with other States.¹



BRIDGE OVER THE COLUMBIA RIVER AT LONGVIEW, WASHINGTON.

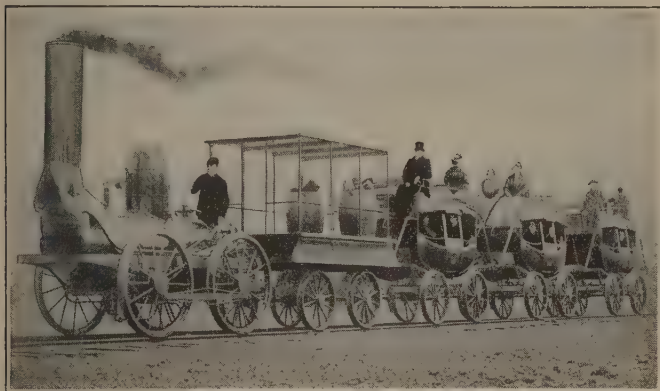
Because this bridge spans a navigable stream its specifications were approved by the War Department, and the building authorized by Congress. Because it connects Washington and Oregon every one who crosses it is committing an act of interstate commerce which might be legal or might be illegal.

The authority of Congress has also been extended to navigable waters wholly within a State and connected with no exterior water if these waters are actually navigated by boats which

¹ Streams that are not navigable in fact are usually not within the power of Congress. However, in 1893 Congress created the California Débris Commission to prevent such hydraulic mining in non-navigable streams as would cause debris to float into navigable streams and fill their channels. The United States Supreme Court sustained this Act of Congress. (*Gravel Mining Co. v. U. S.* — 1898)

Power plants built on non-navigable streams have come under State authority and not Federal. But in 1931 the Federal Power Commission claimed the right to supervise the building and operation of a power plant on New River, Virginia — a non-navigable stream which flows into a navigable stream and thus affects the regular flow of the navigable stream. If the United States Supreme Court sustains the Federal Power Commission in this attempted extension of Federal control over non-navigable streams, builders of power plants would have to obtain Federal as well as State consent to build a dam across non-navigable streams.

connect with interstate common carriers. Thus, a box of fish shipped across a lake wholly within a State is interstate commerce if consigned to a party outside the State and delivered by an interstate railroad. Therefore the little lake boat carrying this interstate box of fish is subject to Federal regulation by Congress.



THE FIRST RAILROAD TRAIN IN NEW YORK STATE.

It was engaged in intrastate commerce in New York State.

Commerce Includes Transportation on Land.—The first railroads were built about 1830. Until the Civil War their building was encouraged by the States. Subsequently, under the Granger movement of the Middle West, they were rather drastically regulated. States even interfered with interstate rates. In 1886 the Supreme Court checked this interference, and in 1887 Congress created the Interstate Commerce Commission. The courts justified the regulation of interstate railroads under the commerce clause, saying that commerce means “traffic,” “intercourse,” and also “transportation.”

Under this power to control interstate “transportation” the Federal government regulates rates for articles or persons carried from one State to another, limits the number of hours that

employees are permitted to work, requires safety appliances, and compels roads to pay damages to employees actually engaged in carrying on interstate commerce, or their assignees, if any employee is injured or killed through the negligence of any of the railroad's officers, agents, or employees.



AN INTERSTATE TRAIN.

This *Capital Limited* of the Baltimore and Ohio Railroad Company runs between New York and Chicago by way of Washington. The engine and tender are 105 feet long and weigh 657,000 pounds.

Commerce between the States is called *interstate commerce*; and commerce within a State is called *intrastate commerce*. As a general rule, the Federal government controls interstate commerce and each State controls intrastate commerce within its borders.

The simple rule that the States have control over intrastate commerce is modified by recent court decisions. When State regulation of intrastate commerce directly interferes with interstate commerce the State regulation must yield to Federal law. For example, Shreveport, Louisiana, which is near the Texas border, and Dallas, Texas, competed for the trade of the Texas towns between these two cities. The freight rates from Dallas to these towns had been fixed by the Texas Railway Commission, and they were much lower per mile than the rates from

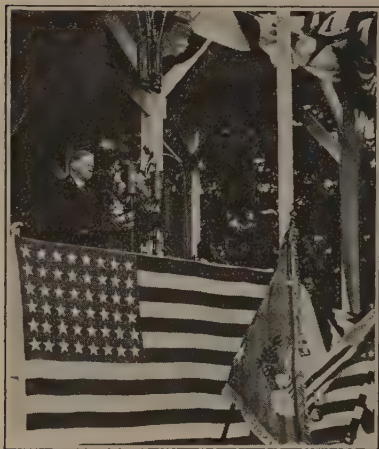
Shreveport to these towns which had been fixed by the Interstate Commerce Commission. Therefore the dealers of Shreveport complained that they were discriminated against because they happened to be located across a State line and were regulated by the Federal Interstate Commerce Commission. The Interstate Commerce Commission heard their complaint and decided that the intrastate rates from Dallas were too low, and ordered them to be raised on a par with the interstate rates from Shreveport. The case was taken to the United States Supreme Court. Here it was decided in 1914 that the order of the Interstate Commerce Commission was valid; that *the authority of the Federal government to regulate interstate commerce carries with it the right to regulate intrastate commerce when it is necessary for the protection of interstate commerce.*

Bus and truck lines running from State to State are of course engaged in interstate commerce; but Congress has not yet brought them under Federal regulation. In the near future Congress is likely to bring these lines under the regulation of the Interstate Commerce Commission or to create a separate commission to regulate them.

Bus lines have already availed themselves of Federal protection in the United States courts because they are engaged in interstate commerce. For instance, Washington State authorities refused Mr. Buck permission to run a through bus line over the Pacific Highway between Seattle, Washington, and Portland, Oregon, because the route was already well supplied by trains and buses. But in 1925 the United States Supreme Court overruled the State authorities because they had denied Mr. Buck the Federal privilege of engaging in interstate commerce. So he established his line under this Federal protection.

Commerce Includes the Communication of Ideas.—The first telegraph line was built in 1842 and the first telephone was exhibited at the Centennial Exposition in the year 1876. Both, when extending from one State to another, are regulated by the Federal government, inasmuch as the courts have said, “com-

merce includes the transmission of messages." Likewise radio-grams and radio broadcasting are commerce, and in 1927 Congress created the Federal Radio Commission to control interstate radio broadcasting.



Wide World.

**PRESIDENT HOOVER ENGAGED IN
INTERSTATE COMMERCE.**

Federal law requires equal broadcasting facilities for all political parties.

Commerce Includes the Movements of Persons. — Persons walking across a State line are engaged in interstate commerce, as are vehicles carrying persons who are driving for pleasure as well as for business reasons. A person maintaining a bridge between two States is engaged in interstate business as clearly as one operating a boat across a river forming an interstate boundary.

Under the White Slave Act passed by Congress in 1910 any person who knowingly transports or assists in obtaining the transportation of a female from one State to another or to a foreign country for immoral purposes is punishable by a fine not exceeding \$5000 or imprisonment not exceeding five years or both.¹

The Right to Regulate Interstate Commerce Includes the Right to Prohibit Commerce. — Congress has excluded from interstate commerce such commodities as lottery tickets, obscene publications, prize-fight films, and game killed in violation of State laws; and Congress has conditionally excluded from

¹ Even to persuade a female to go to another State for immoral purposes comes under this penalty.

interstate commerce such commodities as diseased cattle, dangerous explosives, goods and persons infected with disease, and impure or misbranded foods and drugs.

It had become difficult for an honest man to compete because dishonest producers indulged in every dishonest device — from misrepresenting the quantity in a package to selling fraudulent remedies for cancer. The homely squash, when doctored, flavored, colored, and attractively packed, became “canned peaches”; the apple with little seed added became “preserved strawberries”; oleomargarine dyed yellow took the name of “butter”; veal became “potted chicken”; and even mineral earths have been mixed with cheap meals to produce “flour.” Therefore, Congress has enacted laws prohibiting the circulation in interstate trade of foods, beverages, and drugs that are misbranded as to quantity, quality, or place of production, that are injurious to health, or that make false promises as to their curative properties.

In 1919 Congress made it a Federal offense to transport a stolen car from one State to another or to a foreign country, or for one intentionally to receive, conceal, or dispose of it. The penalty is a fine not exceeding \$5000 or imprisonment for not more than five years or both.

The Right to Regulate Interstate Commerce Includes the Right to Protect It against Unreasonable State Interference. — When an article or package of articles is moved from one State to another it is interstate commerce and it retains its Federal protection against State taxation until it is delivered to its consignee or comes to rest. It retains Federal protection against other State regulations until the original package is broken, it is once sold, or it is used. Thus a State cannot tax a carload of gasoline as it crosses the State border; and it cannot regulate the sale of cigarettes from another State or foreign country until the package is broken or it is once used.¹

¹ The original package which has Federal protection is one which the trade ordinarily uses for transportation. Thus a ten-pound package of

A State may, under its police powers, require interstate commerce to comply with reasonable State regulations pertaining to health, morals, safety, and general welfare. For example, States may require proper heating of all passenger cars as well as sanitary drinking cups. They may forbid gambling on all trains, require crews of sufficient size to protect the public against accident, require all trains to slow down when going through cities, and require them to make a reasonable number of stops within the State. Of course even reasonable regulation of interstate commerce must yield to Federal regulation whenever it comes in conflict with a general Federal law.

The Right to Regulate Interstate Commerce Includes the Right to Protect It against Monopolies. — The Sherman Anti-Trust Law of 1890 was enacted under the power to regulate commerce. It prohibits "every contract, combination in the form of a trust ¹ or otherwise, or conspiracy in restraint of trade

oleomargarine was held to be an original package; but paper cartons containing a pound of oleomargarine are not original packages. The original package is the tub or box in which the pound packages are shipped. Neither is a package of ten cigarettes an original package.

Goods brought into a State by peddlers and sold in the original package cease to have the Federal protection given to consigned commodities. Peddlers' goods are subject to State taxation and regulation as soon as brought into the State. This exception to the original package doctrine is justified because the retail transactions begin at once and the transaction is not analogous to the ordinary wholesale transaction with a jobber who stores his goods in a warehouse.

¹ The *trust* was originally a device by which several corporations engaged in the same line of business would combine to eliminate competition and regulate prices. This was done by creating a central board composed of the presidents or general managers of the different corporations and the transfer to them of a majority of stock from each of the corporations to be held "in trust" for the stockholders who thus assigned their stock. The stockholders received in return "trust certificates" showing that they were entitled to receive dividends on their assigned stock, though the voting power of it had been passed to the trustees. This enabled the trustees to elect all the directors of all the corporations, and thus prevent competition and insure better prices. Though the "trust" has been superseded by "holding corporations" and other devices, any monopolistic combination is to-day called a "trust."

A "holding corporation" is a corporation which purchases a controlling

or commerce among the several States, or with foreign nations." During the first twenty years *every* agreement in restraint of interstate or foreign trade was considered illegal, but since then the law has been modified as follows :

1. *The "Rule of Reason" Has Been Applied.* — During 1911 in the cases against the American Tobacco Company and the Standard Oil Company, the Supreme Court announced that the Anti-Trust Act forbids only *unreasonable* agreements in restraint of interstate and foreign trade. So in 1914 Congress created the Federal Trade Commission (see page 312) to assist well-meaning business concerns in determining what is reasonable and what unreasonable. The Commission may examine the records of the business and may summon the concern to appear and explain certain practices, and may prescribe conditions under which it can avoid prosecution. But one who violates the anti-trust law may still be prosecuted directly without the intervention of the Federal Trade Commission.

2. *Labor Organizations Are Exempted.* — A 1914 Act of Congress provides that labor organizations not conducted for profit are not to be considered illegal combinations in restraint of trade, and that members are not to be restrained in carrying out the legitimate objects of their organizations. However, this provision does not legalize a secondary boycott ; that is, it does not allow laborers to disturb the business of a third party because he buys his commodities from a firm against which a Union is endeavoring to enforce its demands.

3. *Export Firms Are Exempted.* — Foreign exporters have combined their efforts to obtain foreign trade. For example, German firms exporting a certain commodity agreed upon a

portion of stock in the various competing corporations, and controls those various corporations as trustees would, except that the holding corporation actually owns the stock. In case of the "Standard Oil Trust," the Standard Oil Company of New Jersey gradually exchanged its stock for that of the numerous different corporations. This, too, was considered in restraint of trade and the Supreme Court of the United States ordered that the stock be returned to the respective companies.

price and employed one set of salesmen who divided the orders among the firms. In America this price-fixing agreement was illegal; so a 1918 Act of Congress provides that agreements of firms organized solely for export trade are not illegal provided they are not in restraint of trade in the United States or in restraint of the export trade of any domestic competitor of the organized firms.

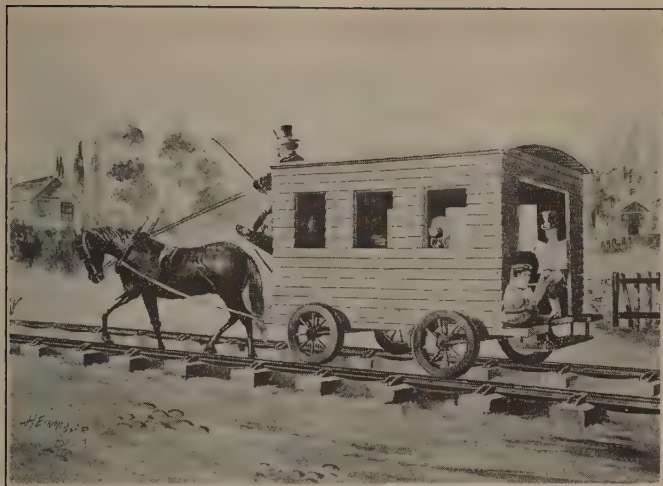
4. *Railroads Are Exempted with Consent of the Interstate Commerce Commission.* — Under the Anti-Trust Act it was illegal for railroads to form combinations or “pools” for the maintenance of freight or passenger rates. By a Congressional Act of 1920 railroads are allowed to agree to the division of traffic or earnings with the approval of the Interstate Commerce Commission. Also this Commission is authorized to consolidate the railroads of the country into a limited number of systems.

5. *Farm Organizations Are Exempted.* — A 1922 Act of Congress allows farmers to form associations to market their products collectively and make necessary agreements to this end. If the Secretary of Agriculture finds that these agreements unduly enhance the price of agricultural products he may order the organization to desist from such restraint of trade.

The Act of Congress creating the Federal Farm Board in 1929 further encourages farmers’ coöperative organizations. (See page 314.)

The Interstate Commerce Commission. — *Why and When Created.* — After the Civil War railroads combined into long and strong trunk lines. Some of them “watered their stock”;¹ some gave preferential rates to cities that stockholders wanted to develop because they owned property there; some gave cut rates (in the form of rebates) to favored “big business”; some charged excessively high rates; and the public lost con-

¹ To “water stock” means to sell stock, or give it to existing stockholders, without putting the money into the railroad or other enterprise. For instance, a road earning 12% profit might double its stock and earn only 6% profit. Watered stock was sometimes sold to innocent purchasers, sometimes merely used to conceal the real profits earned.



BALTIMORE AND OHIO PASSENGER CAR IN 1830.



BALTIMORE AND OHIO AIR-CONDITIONED CAR OF TODAY.

This *Columbian* is the first air-conditioned train in the world. Even the temperature is automatically kept at 75. The air is purified and cooled.

fidence in them. In the Middle West the Grangers (organized farmers), who were financially pinched, gained control of State legislatures and legislated freight rates so low and other restrictions so burdensome that the railroads were in danger of losing money. Therefore both the public and the railroads were willing for Congress to create a commission to secure just treatment for both the general public and the railroads; and in 1887 the Interstate Commerce Commission was created.

Membership. — The membership of the Interstate Commerce Commission has gradually increased to eleven, who are appointed by the President, with the consent of the Senate, for terms of seven years.

Supervision over Interstate Carriers. — Congress enacts laws regulating interstate common carriers, and the Interstate Commerce Commission supervises the execution of an increasing number of laws which pertain to the following interstate carriers: railroads; boats when used for joint boat-railroad hauls; express companies, sleeping-car companies; telegraph, cable, and telephone companies (whether wire or wireless), and pipe lines carrying commodities other than water or natural and artificial gas.¹

The Negative Duties of the Commission are to forbid common carriers:

(1) To charge unjust rates. (Rates cannot be changed without giving 30 days' notice to the Commission, and the Commission will not approve an unreasonable change.)

(2) To give rebates to individuals, or special rates to particular shippers or localities.

(3) To charge more for a short than for a longer haul, except when the Commission considers competition to justify it. (For instance, the rates from New York to the Rocky Mountain

¹ It should be noted that the Interstate Commerce Commission does not supervise aeroplane lines, bus lines, steamboats (except joint boat-railroad hauls), radio broadcasting, unfair practices in interstate commerce by persons or firms other than common carriers, nor vehicles which do not move by rail.

States may be higher than the rates from New York to the Pacific Coast. If the coast rates were not lower, the freight would go by way of the Panama Canal and the roads would lose this freight which their expensive roadbeds can carry without additional cost.)

(4) To grant free passes with certain specified exceptions.

(5) To transport commodities which they produce, except timber and its products. (This is to prevent railways from combining with manufacturing or mining corporations and giving them more prompt or efficient service than that given their competitors.)

(6) To pool their earnings with a competing corporation, except with the consent or order of the Commission.

(7) To build a new railroad in competition with a competing one or to discontinue service without consent of the Commission.

(8) To issue capital stocks and bonds without the consent of the Commission.

(9) To prescribe rates between two points within a State so low as to put points outside the State at an unreasonable disadvantage.

The Positive Duties of the Commission are to require common carriers :

(1) To keep accounts uniformly as prescribed by the Commission.

(2) To publish their rates and fares for public inspection.

(3) To render annual reports to the Commission.

(4) To coöperate in the interest of the shippers. (For instance, the Commission may transfer cars from one company to another in case of an emergency, may route traffic over other lines if the one receiving it is unable to handle it, may require coöperative use of terminal facilities, and may require convenient connections at junction points.

(5) To provide reasonable service. (For example, the Commission may require railroads to build branch lines where they

are reasonably necessary for shippers in a territory dependent upon a trunk line.)

How Complaints Are Made. — Any individual, corporation, board of trade, city, or other group of persons may petition the Interstate Commerce Commission to redress grievances against a common carrier. The grievance might be an omission to perform a legal duty or it might be a violation of the law. Thousands of complaints are filed annually. For instance, a New England woman who shipped a couple of cans of milk each day once complained to the Commission. The Commission was impressed with the justice of the complaint and an extensive investigation of milk rates throughout New England resulted in more equitable rates.

The Railroad Contingent Fund. — The Transportation Act of 1920 administered by the Interstate Commerce Commission requires interstate railroads to pay into a contingent fund 50 per cent of all profits in excess of 6 per cent. This fund was to be used to make loans to railroads, or to purchase equipment or facilities and lease them to the railroad companies. According to the Commission's method of figuring it seems that the railroads should have paid \$400,000,000 into this fund; but the Commission has been unable to collect anything because the Commission and the Supreme Court differ as to whether it is 6 per cent of the original cost of the roads or 6 per cent of the reproductive cost that the roads are supposed to pay. The Transportation Act evasively directs the Commission to take both the original and the reproductive costs into account.¹

The Right of Appeal. — Congress passes the laws pertaining to interstate carriers; the Interstate Commerce Commission

¹ The Interstate Commerce Commission has had three difficulties to face in attempting to collect this contingent fund: (1) when the roads were prosperous they attempted to conceal profits above 6 per cent by putting them back into the betterment of the road; (2) the Act indefinitely directs the Commission to take into account both the original cost of the roads and also the reproductive cost; and (3) the survey to determine the original cost and the reproductive cost of railroads has not yet been completed for all roads;

administers them with the assistance of law-enforcing officers; but no decision of this Commission is final until there is an opportunity for a court hearing.

The Board of Mediation, created by Act of Congress in 1926, consists of five members appointed by the President. It attempts conciliation or encourages arbitration between interstate carriers and their employees when their adjustment boards are unsuccessful. The Board of Mediation cannot compel either side to accept its decisions. If matters become too bad, the President may appoint an emergency board to inform the public as to the merits of the controversy.

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See Bibliography for Assignment I of this chapter.

QUESTIONS ON THE TEXT

1. What travel and trade advantages has the commerce clause given citizens of the United States over Europeans who travel and transact business in Europe?

and when it has, you have the value of a dollar when the road was originally built, the value of the dollar when the road was surveyed (the survey beginning in 1912), and the present value of the dollar.

No serious attempt to recapture the excess earnings of railroads seems to have been made until the Commission demanded that the St. Louis and O'Fallon pay one half of its profits above 6% based on the prudent investment original cost theory of valuation, the Commission finding the reproductive cost hard to determine. The case was appealed from the order of the Commission, and in 1929 the United States Supreme Court decided that the cost of reproduction anew on the basis of current prices must also be considered according to the Act of 1920.

In 1931 the Norfolk and Western Railroad also was ordered to pay over \$15,000,000 of excess profits earned between 1922 and 1926 — profits which they are said to have used in increasing the value of the road. They appealed from the Commission.

In 1931 the Interstate Commerce Commission recommended to the senate interstate commerce committee that the battle to recapture the excess earnings be dropped because it could be collected only by "extensive and prolonged litigation" and because the railroads are now "faced with continually increasing competition from other forms of transportation."

2. Under the commerce clause what power has Congress over imports? Exports?

3. What is the *original package doctrine* and what restrictions does it impose upon States?

4. In what ways does Congress regulate navigation? Foreign communication? Immigration?

5. Under what clause of the Constitution does Congress get power to regulate immigration?

6. What is meant by interstate commerce? By intrastate commerce?

7. Did the interstate commerce clause originally have reference primarily to commodities or to means of transportation?

8. What was decided by the case of *Gibbons v. Ogden*?

9. To what extent has Congress developed navigable streams? Regulated them?

10. Does a body of water necessarily have to communicate with another State to come under the regulation of Congress?

11. How does Congress protect American coastwise shipping against foreign competition?

12. Under what condition does the Federal government regulate intrastate rates? Explain by the *Shreveport* case.

13. Are bus lines engaged in interstate commerce? Are they under Federal regulation like railroads?

14. What does Congress regulate under its power to regulate interstate communication of ideas?

15. Is a person walking across an interstate bridge interstate commerce according to the commerce clause?

16. Can one caught taking a stolen car from one State to another be prosecuted in a Federal court?

17. What is an original package that receives protection as interstate commerce?

18. In what respect does the "original package doctrine" differ when applied to foreign commerce and to interstate commerce?

19. Do goods brought into a State by peddlers receive the original package protection?

20. Give some examples of the regulation of interstate commerce by States under their police power.

21. What is a monopoly? What is a "trust"? What is a "holding company"? Under what Federal power has Congress legislated against monopolies?

22. What exceptions are there to the original meaning of the Sherman Anti-Trust law?

23. Why was the Interstate Commerce Commission created? What are its negative duties? Positive duties? Who make complaints to it?
24. Describe the Railroad Contingent Fund problem.

QUESTIONS FOR DISCUSSION

1. Could the United States forbid the export of lubricating oils so as to conserve the supply which is so essential to our machinery.

2. In 1798 Robert Livingston secured from the New York legislature an exclusive twenty-year grant to navigate by steam the rivers and other waters of the State, provided that within two years he should build a boat which would make four miles an hour against the current of the Hudson River. The grant was made amidst the ribald jeers of the legislators, who had no faith whatever in the project. The offer was renewed in 1803 to Livingston and Fulton as partners, and again in 1807. In August, 1807, Fulton's steamboat made its first successful trip from New York to Albany, and steamboat navigation became a reality. The following year the legislature, now fully aware of the practical significance of Fulton's achievement, passed a law providing that for each new boat placed on New York waters by Fulton and Livingston they should be entitled to a five-year extension of their monopoly, which should, however, not exceed thirty years. The monopoly was made effective by further providing that no one should be allowed to navigate New York waters by steam without a license from Fulton and Livingston, and any unlicensed vessel should be forfeited to them.

In 1824 the United States Supreme Court declared unconstitutional this monopoly granted to Fulton and Livingston? Was this decision a victory for the States rights group or the Nationalist group? If each State controlled the navigable waters which communicate with other States, would transportation be more or less expensive than at present? More or less convenient?

3. A ranchman was driving his sheep from Oregon to Montana through Idaho on the day that annual property taxes were assessed in Idaho. The tax assessor in Idaho endeavored to tax these sheep but was unsuccessful because the owner appealed to the Federal courts, basing his case upon Art. I, Sec. 8, Cl. 3, of the U. S. Constitution. Explain.

4. (a) Under the Pure Food Act of 1906 the labels on bottles of patent medicines must name the ingredients of the medicine. Do you favor this "prying into a man's business" or do you favor the old theory, "Let the purchaser beware"?

(b) Senator Smoot said, "The American Tobacco Company dares to flaunt on the billboards of the nation posters showing an adolescent girl smoking cigarettes," and he offered a resolution to amend the Pure Drug and Foods Act, asserting that the Department of Agriculture should "exercise the same control over false and deceptive statements made through advertising media that it now exerts in preventing the use of false and deceptive statements" made on labels or containers. Do you agree?

5. A loaded freight truck, en route from New York to Portland, Maine, was put in a garage in Boston on the evening of March 31st. The next morning it was assessed for taxation by the Boston assessors under the provisions of the Massachusetts law which permits the levy of a tax on all tangible personal property within the State on the first day of April each year. Why was this assessment unconstitutional?

6. In 1930 a District Judge held that a State cannot tax the gasoline purchased and used by a transcontinental air line. Why?

7. Is a package of ten or twenty cigarettes shipped from another State an "original package" not subject to the police power of the State until sold or opened?

8. Can a State tax an "original package" from a foreign country? From another State? Can it regulate it under its police power if from a foreign country? If from another State?

9. The Douglas Fir Exploitation and Export Company handles the export trade for the lumber mills of the Northwest, and the Pacific Export Flour Company handles the export business for the flour mills of that region. What are the benefits of such combinations?

10. Does the Federal Interstate Commerce Commission or the Virginia "Corporation Commission" regulate the rate of carfare between Norfolk and Richmond, Virginia? Between Norfolk, Virginia, and Baltimore, Maryland?

11. Each State has a commission (or commissioner) to regulate railroads within its own borders. The Interstate Commerce Commission regulates railroads extending from one State into another. Would you favor the control of all railroads by Congress and the Interstate Commerce Commission? By what legal method could this power be obtained?

12. It costs more dollars to build a railroad to-day than it did when most of them were built. In determining what rates will produce a fair return to railroad companies, do you think the original cost of building or the cost of rebuilding such a road to-day should be made the basis for figuring fair interest? If you owned railroad stocks which basis would be to your advantage? If you were a large-scale shipper?

13. Why cannot you determine the value of railroads by the face value of all the stocks issued?

14. Automobiles and trucks, aëroplanes, oil and gas pipe lines, and coal-dust pipe lines a near reality, and constant improvement in rivers and harbors and canals — all these things have produced so much competition for railroads that some lines could not be sold for half that they cost. Should the Interstate Commerce Commission allow rates on stretches where there is no competition high enough to produce normal dividends on the cost price of the road or should railroads have their rates based upon their present sales value?

15. The Transportation Act of 1920 directs the Interstate Commerce Commission to fix rates that will give a fair return of profit under efficient and economical management; and it gives the Commission power to forbid the construction of new competing lines which would unduly impair the earnings of original lines. This is favorable to the railroads. But the Act also gives the Commission power to order a railroad to extend its lines where demanded by public convenience and necessity. This is to protect the public.

Under the last-mentioned power the Interstate Commerce Commission, in 1930, ordered the Union Pacific to build a line 185 miles long through central Oregon from Crane to Crescent at a cost of perhaps \$10,000,000. The railroad obtained an injunction from the United States District Court on the ground that the territory could not produce enough freight to justify the extension and that the earnings of the main line would therefore suffer — in legal terms, that the road would be deprived of property without due process of law and therefore contrary to Amendment 5 of the United States Constitution. The United States Supreme Court has not yet decided the question. The Interstate Commerce Commission either believed that enough freight would develop to justify the road or that the main line could absorb the loss in developing new territory. Would you have decided with the Commission in ordering the building of the road or with the Court in canceling this order?

CHAPTER VII

CONGRESS IN ACTION

Organization of the House of Representatives. — Officers. — Before a new Congress assembles it is known which party will control the House; and the members of the majority party hold a caucus (see page 170) to nominate the Speaker, who is the presiding officer of the House; a clerk; a chaplain, who opens each daily session with a short prayer; a sergeant-at-arms, who preserves order;¹ a door-keeper; a postmaster; and other less important officers. As the action of this caucus is considered binding upon the majority members, the final election after the House convenes is a mere formality.

Opening of a New Congress. — Representatives who are elected in November of the even-numbered year succeed their predecessors the following March, when the previous Congress officially ends; but unless a special session is called between March 4 and the first Monday in December they will not be sworn in until the latter date — thirteen months after election.²

¹ The sergeant-at-arms also has charge of the halls and pays members their salaries, but his most interesting function is that of custodian of the mace, a representation of the Roman *fascis* surmounted by a globe and an eagle of silver, which is the symbol of authority. When the House is in session the mace is always in a stand to the right of the Speaker. If the Speaker cannot maintain order, he instructs the sergeant-at-arms to approach the unruly member with the mace and demand order in the name of the House. If the display of the mace does not restore order, the House may authorize the sergeant-at-arms to arrest the unruly member.

² The short session of Congress convenes after the congressional election in which many of the members have been defeated. This session is known as the "lame duck" session because the pride of many members has been wounded by defeat at the November election. So these defeated members are likely to limp through this "lame duck" session with legislative enthusi-

Immediately after the expiration of a Congress at noon on the 4th of March of every odd-numbered year the House is without a Speaker and committees. It has no rules, no sworn membership, and no actual existence as an organized body. All unpassed bills of the old Congress are dead and must be reintroduced when the new Congress organizes.

When a new Congress assembles in December the members-elect are called to order by the clerk of the preceding House. The clerk reads a roll of members-elect whose credentials are in due form; the members-elect select a Speaker, who takes his oath of office from the oldest member-elect in point of service — called “the Father of the House”; the Speaker, in turn, administers the oath to members-elect against whom no objections are raised by fellow members; the Democrats seat themselves to the right of the center aisle, the Republicans to the left; and, finally, the new clerk is chosen. The rules, usually those of the preceding House, are adopted. Thus the House is organized.

The Senate, a continuous body, is notified that the House is organized and ready to proceed to business. A joint committee of the two houses notify the President that they are ready to receive any communications. The following day the President’s message, outlining desired legislation, is sent to the houses and read, or delivered by the President himself if he desires, as Washington, Adams, Wilson, and Harding did.

Rules of Procedure. — According to the Constitution each house may make its own rules of procedure, but must keep a public journal showing how motions are disposed of and the vote for and against bills and resolutions. It also requires the votes of each member to be recorded if one fifth of the members present demand it. This requirement enables a small number of members to put all the members on record, and thus

asm chilled and a divided interest because they must reestablish themselves in a profession or business. Some are said to court the President’s favor in the hope of being compensated by a desirable presidential appointment, and thereby strengthen the President and weaken Congress.

their constituents may know how their representatives have voted on important bills.

Senate Rules are not so drastic as those of the House because the body is smaller and can proceed in a somewhat less formal manner. The President of the Senate recognizes members in the order in which they rise, and a member may speak as long as he chooses, unless the Senate resorts to the closure rule, which was adopted in 1917. According to this rule, on petition of sixteen senators, supported two days later by a two-thirds vote of the Senate, no senator can speak on the measure under discussion more than one hour. Thus the old abuse of "talking a bill to death," which is known as *filibustering*,¹ may be prevented if two thirds of the members desire to do so.

House Rules are changed oftener than Senate rules, and are more drastic, otherwise the large house would make no progress. A member may not speak more than an hour without unanimous consent; the Speaker is not obliged to recognize members

¹ In ordinary use, the term "filibuster" means to act as a freebooter or buccaneer, but in the congressional sense it is applied to the obstruction of legislation by use of the technicalities of parliamentary law or privilege, such as the Senate privilege of unlimited debate (aside from Rule 22 adopted in 1917). Thus several senators with great power of endurance and a liberal supply of documents from which to read, may consume the time of the Senate and prevent it from acting on measures which they oppose.

When the short ("lame duck") session is approaching its end on March 4th, and many measures need time for passage, a single senator may block all legislation by talking until noon when the session ends. A Wisconsin senator once spoke for nearly eighteen hours. Another senator, by threatening to talk until the end of the session, compelled the Senate to pass a bill for the settlement of a money claim by his State against the United States, which had been pending for nearly three quarters of a century.

If the Senate adjourns while a member is speaking he has the floor when it meets the next day. Therefore the friends of one leading a filibuster will endeavor to vote an adjournment to save the strength of the leader. But the majority members must remain to vote down proposed adjournments, and on such occasions senators may have cots brought to the capitol so they can sleep until a roll call is started. Pages hastily awaken them, and before the 96 names can be called they are present to vote down adjournment. Then they can return to their cots until another roll call.



Official Photograph, U. S. Army Air Service.

BIRD'S-EYE VIEW OF CAPITOL HILL, WASHINGTON.

Union Station	Senate Building	Library of Congress
Post Office	Capitol	House Building

in the order in which they rise; and a majority, by means of the "previous question,"¹ may end a debate at any time.

Though the rules prescribe a regular order of business for each day in the week — *e.g.*, Friday is "private bill day" — most bills are considered when the regular order of business is departed from. The regular order of business may be departed from by the unanimous consent of the members or by the adoption of a "special order" recommended by the committee on rules. On two Mondays in every month, and during the last six days of the session, rules may be suspended by a two-thirds vote, and therefore popular bills may be taken up out of their regular order.

The House Committee on Rules was originally intended to report upon desirable changes in the rules of the House. Gradually it obtained the power to determine the order of procedure and practically what measures should be considered. Until 1910 it was composed of five members, the Speaker and four others appointed by him — two of the majority party and two of the minority. This allowed the Speaker to dominate legislation to such an extent that he spoke of the committee as consisting of "myself and two assistants," the two assistants being members of his own party whom he could control. By 1910 Speaker Cannon so offended the "progressive" Republicans that, with the aid of the Democrats, they passed a rule depriving the Speaker of membership on the committee and increased the size of the committee to ten members.² The appointment of this committee and of all other committees was finally taken from him.

Committees. — The House of Representatives has become too large for free debate and neither the House nor the Senate could work out the details of important legislation upon the floors of the houses. Therefore each house is divided into numerous standing committees, which are permanent throughout a term of Congress (two years), and into other temporary committees. The

¹ "The previous question" means, "Shall the main question now be put?"

² This Committee has since been increased to twelve members.

72nd Congress had 46 standing committees in the House and 34 in the Senate. The committees vary in size from two members of the Committee on the Disposition of Useless Executive Papers to 35 members of the Committee on Appropriations.



HOUSE COMMITTEE ON COMMITTEES.

Harris and Ewing.

These committees investigate proposed legislation and recommend for passage the bills which they approve. In each house there are only twenty-odd active committees, and though these vary in importance from time to time the following ten are of first importance :

House of Representatives

- Ways and Means
- Appropriations
- Rules
- Military Affairs
- Naval Affairs
- Foreign Affairs
- Interstate and Foreign Commerce
- Judiciary
- Immigration and Naturalization
- Expenditures

Senate

- Finance
- Appropriations
- Rules
- Public Expenditures
- Military Affairs
- Naval Affairs
- Foreign Relations
- Interstate Commerce
- Judiciary
- Immigration

Until the year 1910 all members of House committees were selected by the Speaker, but since 1911 all of these committees have been elected by the members of the House.¹ Senate committees are also elected by members of the Senate.² The majority party of each house gives the minority party representation on each committee.

The names of committees indicate the class of bills which the Speaker of the House and the President of the Senate refer to them; for instance, the Speaker refers bills for raising revenue to the Ways and Means Committee of the House and the President of the Senate refers them to the Finance Committee of the Senate.

Bills. — Any member of either house of Congress may prepare and introduce bills, except that a bill for raising revenue must be introduced in the House by a representative. But the most important bills are prepared by committees and introduced by committee chairmen. During the Seventy-first Congress 24,453 bills and joint resolutions were introduced in the two houses. Of these 1524 were enacted. Thus less than seven per cent of those introduced became law. However, most of

¹ Though the committees are formally elected by the members of the House, they are really chosen in a very different manner. When the Republicans gained control of the House in 1919 they created a Committee on Committees to select the Republican members. This committee consists of one Republican from each State having Republican representation in the House, and each committeeman casts as many votes as there are Republican representatives from his State. The Democratic committee members are selected by the Democratic members of the Ways and Means Committee, who are named by the Democratic caucus. These nominated members of the standing committees are then promptly elected by the House.

Members continue upon the same committees term after term unless transferred upon request of the member or for special qualifications.

The committee member longest in continuous service is usually made chairman according to the rule of seniority. The Senate has the same rule.

² Committees of the Senate are in reality chosen by two Committees on Committees selected by the caucuses of the two leading parties. The nominees of these committees are usually elected by the Senate without debate.

them were not introduced to become law, but merely "to please the voters back home."

A bill may become law by a majority vote of each house of Congress and the signature of the President. If the President vetoes a bill, it may still become a law if passed by a two-thirds vote of each house. Or, if the President takes no action within ten days, Sundays excluded, the bill becomes a law without his signature, provided Congress does not adjourn meanwhile. If Congress does adjourn within the ten-day period the bill does not become law without the President's signature. This method of killing a bill is known as the "pocket veto."

A bill usually relates to only one subject, but sometimes a "rider"¹ dealing with a different matter is included in a bill. For instance, some years ago the barrooms in the Capitol Building were abolished by a short sentence tucked in an annual appropriation bill—a bill which Congress was practically obliged to pass and which the President was obliged to sign.²

The Hawley-Smoot³ Tariff Bill Traced.—On March 4, 1929, President Hoover entered office with a Republican Congress pledged to a protective tariff that gives full benefit to farmers. On March 7 he called a special session of Congress to carry out this pledge. It convened April 15, but the Republican members of the Ways and Means Committee had been framing a tariff bill since January.

On May 7 this bill "to provide revenue, to regulate commerce

¹ In legislation the word "rider" refers to a measure which rides through the legislative body and the chief executive on a more important bill which is certain to go through.

The term "rider" probably comes from the field of music. A musical string vibrates in segments, and if you pinch a strip of paper and hang it over the string at an interval where the string vibrates least, the paper will *ride* the string; if at the wrong interval, it will bounce off.

² The House of Representatives now has a rule restricting the use of riders in appropriation bills.

³ A law commonly takes its name from the chairman of the House committee and the chairman of the Senate committee to which the bill has been referred.

with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes" was introduced by Representative Hawley of Oregon, Chairman of the Ways and Means Committee, by placing it in the "hopper" of the House.¹ The Parliamentary Clerk at the Speaker's table, acting for the Speaker, numbered the bill H. R. 2667, there having been 2666 other bills introduced by members of the House of Representatives since the 15th of April. He referred it to the Committee on Ways and Means. The bill was recorded by its title in the Journal of the House² and in the Congressional Record³ for the day and thus brought to the attention of the members.

As the majority of the Ways and Means Committee had prepared the bill it naturally approved it at once; and on May 9 Mr. Hawley, acting for the Committee, reported it back to the House with recommendation that it pass. It was listed upon the Calendar of the Committee of the Whole House on the State of the Union, and announced by title to the House. The House resolved itself into Committee of the Whole⁴ day after day for

¹ The "hopper" is a large basket in which new bills are deposited.

² The Journal of the House contains the minutes of the proceedings from day to day, which are read at the opening of each daily session.

³ The Congressional Record reports the debates of congressmen, the motions, the votes, and the disposition of bills. Each morning a copy of it is furnished to each member of Congress. The official reporters always correct the English of speeches and often give them a more elegant finish without changing the meaning.

⁴ After revenue or appropriation bills have been reported from one of the standing committees, the House always resolves itself into the Committee of the Whole in order that these bills may be discussed freely. This committee is composed of all the members of the House, but only 100 are required for a quorum, therefore members who are not interested in the bill under consideration need not attend. It operates with less formal rules than the regular sessions of the House and no individual votes are recorded — only the totals. The Speaker does not preside when the House is in Committee of the Whole but calls another member to the chair. There is no reason for his vacating the chair except that we follow the old English custom whereby the Speaker of the House of Commons was excluded from the Committee of the Whole of Parliament for fear he would report to the King what was being discussed in committee. The mace is also removed from

the consideration of this bill, and here only was it read and considered section by section. With certain amendments the Committee of the Whole referred the bill back to the House, which passed the bill May 28 by a vote of 264 yeas and 147 nays.


The next day (May 29) a clerk of the House carried a certified copy of the bill to the Senate and announced that it had been passed by the House. The bill was immediately referred to the Finance Committee. (It should be noted that there is no Ways and Means Committee in the Senate, as all bills for raising revenue originate in the House.) Public hearings were held from time to time until September 4 when Senator Smoot of Utah, Chairman of the Finance Committee, reported it to the Senate as amended by the Committee. The bill was then freely debated by the Senate "as in Committee of the Whole" for more than six months and passed with amendments by 53 yeas to 31 nays on the 24th of March.

As 1253 amendments were made to the bill by the Senate it was necessary to have a conference committee of the two houses to reconcile the differences, therefore the Speaker appointed five representatives and the President of the Senate appointed five senators. The bill was sent to conference three times, and nearly three more months were consumed before the conference committees brought the houses to an agreement. But finally on June 13, 1930, the Senate voted 44 yeas and 42 nays, and the following day the House voted 222 yeas and 153 nays.

After the presiding officers of the houses had signed this conference agreement the bill was sent to the President, who signed it on the 17th of June, 1930. In this way did bill H. R. 2667 become Public Law No. 361, so numbered because it was the

its high pedestal at the right of the Speaker. In Committee of the Whole the bill is discussed in detail, and amendments are usually recommended when it is reported back to the House (regular session) for final vote.

In the Senate all bills are debated *as in Committee of the Whole*. The Senate "Committee of the Whole" differs very little from the Senate proper. The President of the Senate remains in the chair and a full majority of the whole body is necessary for a quorum.

361st bill of a public character enacted into law by the Seventy-first Congress. However, it is commonly referred to throughout the country at large as the Hawley-Smoot Tariff Bill. 

Making the National "Budget." — Nearly every civilized state has a finance minister who prepares a statement of the estimated cost of conducting the government and indicates how the necessary money is to be raised. The legislative body of such a state accepts the proposal or rejects it, or may decrease certain items, but it may not increase them. This method of raising money and expending it creates a true budget.

When the Congress of the United States created the office of Secretary of the Treasury it provided that the Secretary should be a true finance minister. His duty was "to prepare and report estimates of the public revenue and the public expenditures." Alexander Hamilton, the first Secretary of the Treasury, prepared a true budget, which provided for raising the revenue as well as appropriating it.

In the early part of the nineteenth century the House created a Committee on Ways and Means to prepare bills for raising revenue and for appropriating money, thus taking from the Secretary of the Treasury the responsibility which he had formerly had of creating a true budget.

For many years one annual bill provided for raising all revenue and also for its expenditure. Gradually more and more appropriation bills were passed each year, but all were prepared by the Ways and Means Committee.

As a result of the Civil War a new committee, known as the Committee on Appropriations, was created to prepare all appropriation bills, the Committee on Ways and Means continuing to prepare all bills for raising revenue. In 1885 the House began to divide the work of creating appropriation bills among various committees, and by 1920 there were eight such committees.¹

¹ The committees that prepared appropriation bills until 1920 were :

1. Committee on Appropriations. This committee prepared bills for the legislative, executive, and judicial expenses; for sundry civil expenses; for

Congressmen were elected for membership on these committees because of their special interest in the services for which these appropriations were to be made. So each committee was inclined to obtain as much money as possible from the Treasury, regardless of its relative importance. Likewise, each congressman, through these various appropriating committees, endeavored to get as much money as possible out of the Treasury to be spent in his home district — to use the congressional phrase, "to get pork out of the public pork-barrel."

These "pork-barrel" appropriations were commonly obtained for pensions, private claims, Federal officers, post offices in small towns where they were not needed, for a new army post or naval station wherever the committee chairman's district happened to be, and for river and harbor improvements where there was little commerce. Some years ago Senator Tillman of South Carolina openly declared that when general stealing is going on it is a senator's business to see that his State gets its share. During a Senate debate he declared: "The whole scheme of river improvement is a humbug and a steal; but if you are going to steal, let us divide it out, and not go on complaining." Upon another occasion when the naval appropriation bill was before the Senate he remarked: "We have a little orphan of a naval station down in South Carolina, for which I am trying to get a few crumbs of this money which is being wasted."

Each congressman was able to get "pork" for his district because he helped every other one to get it for his own. This prac-

fortifications and coast defenses; for the District of Columbia; for pensions; and for all deficiencies.

2. Committee on Military Affairs.
3. Committee on Naval Affairs.
4. Committee on Indian Affairs.
5. Committee on Foreign Affairs.
6. Committee on Post Offices and Post Roads.
7. Committee on Rivers and Harbors.
8. Committee on Agriculture.

The Committee on Claims and the Committee on War Claims prepared special appropriation bills from time to time.

tice of working together in securing appropriations is known as "log-rolling" — a term drawn from pioneer life where neighbors lent a hand in rolling logs when a settler was building his cabin.

This pork-barrel-log-rolling practice was a natural result of the irresponsible system of budget-making in the United States, and showed the great need of reform. So, in 1920, the House increased the membership of the Committee on Appropriations from twenty-one to thirty-five; and provided that all House appropriation bills should be handled by this single committee.

In 1921 Congress created the Bureau of the Budget with a director appointed by the President. The Bureau is nominally in the Treasury Department, but in reality is an independent bureau responsible only to the President. Under the budget law the head of each department and establishment prepares an estimate of its needs for the succeeding year and transmits it to the Bureau by September 15. It is the duty of the Bureau to examine these estimates, and, under such rules and regulations as the President may prescribe, prepare for him the Budget. The President sends this to Congress on the first Monday in December.

The committees that formerly had power to prepare appropriation bills continue to prepare legislative bills for their services, but are dependent upon the Committee on Appropriations to provide funds for their projects.

The Party Caucus. — Each party in the House of Representatives has a secret conference of its members, known as the party caucus, for the purpose of securing unanimous party action on any important question. The important question may be the nomination of the speaker, the floor leader, or the whips¹ of the party. More often the work of the caucus is to determine the party attitude on pending legislation.

When important legislation is under consideration the ma-

¹ A "whip" is a member of a party who looks after the interest of the party and secures the attendance of as many members as possible when an important vote is to be taken.

majority caucus meets and decides whether or not the bill will be made a party measure. In the caucus each member may speak freely; but if the majority decide to make the bill a party measure every member of the party is expected to vote for it in the House. For instance, when the Underwood-Simmons Tariff Bill was under consideration in 1913 the Democratic caucus decided that the bill should pass the House, and that it should not be amended by the House unless Mr. Underwood himself, chairman of the Ways and Means Committee, should offer the amendment. If any member fails to vote as directed by the caucus he is likely to lose all influence in the party.

The minority party of the House also has a caucus for the selection of its leaders and to determine whether it will act solidly as a party in opposing a bill favored by the majority party.

The Democratic caucus is held in secret. In 1913 the caucus of the Republican party in the House was thrown open to the public, but that too is now held in secret under the name "conference," and its action does not seem as binding upon its members as of old. The results of both are given to the press.

The political parties in the Senate also have their caucuses. In fact, there is a special caucus room in the Senate Building as well as one in the House Building. Both of these are spacious rooms which adequately accommodate all members of either political party.

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QUESTIONS ON THE TEXT

1. What is a *caucus*?
2. When are Representatives elected? How many months later do they succeed their predecessors? How many months later do they ordinarily take their seats?
3. Who calls a new Congress to order?
4. How is the Speaker of the House chosen?
5. A term of Congress extends over how many years? Does the Senate ever have to reorganize?
6. Who makes the rules of procedure for each house?
7. How many members of each house are necessary to demand that all votes on any measure be recorded?
8. How long may a member of the Senate speak? What is meant by a *filibuster*?
9. How long may a member of the House speak? How may a debate be brought to a close in the House?
10. Under what conditions may a bill be taken up out of its regular order?
11. What committee recommends changes in the rules of the House?
12. What duties are performed by the committees of the House and of the Senate? About how many committees are there? Name some of the most important ones.
13. How are House committees chosen?
14. Who may introduce bills? About what proportion of the bills introduced become law?
15. Name the steps through which a bill must pass to become law.
16. When a term of Congress comes to an end, what becomes of all the bills which have been introduced during that term?
17. Trace the course of the Hawley-Smoot Tariff Bill.
18. What is the Journal of the House? How often read?
19. What is the Congressional Record? How often issued?
20. What is the Committee of the Whole? How many members are necessary for a quorum? Who presides?
21. Explain the provisions of the Budget Act of 1921.
22. Explain the party caucus.

QUESTIONS FOR DISCUSSION

1. Why cannot a bill be defeated in the House of Representatives by filibustering as well as in the Senate?
2. Around every legislative body are numerous lobbyists, or persons whose business it is to influence legislation. Capitalistic organizations,

labor organizations, and similar bodies keep lobbyists in Washington. Some lobbyists are kept there purely for selfish or corrupt purposes. Why would you support or oppose the bill which passed the Senate in 1928 (but failed in the House) requiring lobbyists to register with the Clerk of the House and the Secretary of the Senate, giving their own names and the names and addresses of those by whom they are employed, together with a statement of the interest which they or their principals may have in the legislation they oppose or favor, and the amount they are paid for carrying on their activities? (See page 436.)

3. The fate of all important bills is determined in the majority party caucus. Our laws are really not enacted by a majority of Congress but by a majority of the majority party in each house. As a result of this custom a bill might conceivably become a law when only one fourth plus one of the members favor it. This is party government and is efficient, but it has some disadvantages. Discuss the custom.

4. In 1930-1931 both Houses of Congress passed a resolution introduced by Senator Norris which proposed a constitutional amendment providing that a Congress elected in November should begin its first session two months later — in January. Thus both sessions of Congress could be completed before the next election. But the resolution was not submitted to the States for ratification because the House added an amendment to the resolution to which the Senate did not agree. This amendment provided that the second session should end in May instead of being indefinite in length like the first session. Why did the House instead of the Senate favor limiting the length of the second session?

On the face of Article I, Section 4, Clause 2, it would seem that Congress could appoint a different day for Congress to meet. But the trouble is that the Constitution provides that representatives shall be elected every second year and senators for six years. If terms should begin in January instead of March members of the last Congress under the existing arrangement would be deprived of two months of their constitutional term of office. Therefore it seems necessary to amend the Constitution to get rid of "lame duck" Sessions of Congress. If this amendment is submitted, why will you favor or oppose it?

5. In the spring of 1914 Representative Hobson introduced in the House a resolution to amend the Constitution, giving Congress power to regulate the manufacture of liquors. The resolution was referred to the Judiciary Committee. Congressmen who were unwilling to vote upon the question before the November election hoped that the Judiciary Committee would live up to its reputation of being a "legislative morgue." But the committee members, aroused by criticism against

them, refused to "hold the bag," and on May 5 reported the resolution to the House without recommendation. Explain the words "legislative morgue."

6. Representative Fitzgerald, a former chairman of the Committee on Appropriations, thought that no money should be appropriated from the Treasury except by a vote of two thirds of each house of Congress, unless requested by one of the department heads and submitted to Congress by the President. Do you favor this proposal? Instead of requiring a two-thirds vote for appropriations not requested by one of the department heads, would you favor a vote of two thirds for all appropriations not recommended by the Budget Bureau? By the new Committee on Appropriations?

7. In 1930 Congress enacted a public buildings bill which authorized the appropriation of \$35,000,000 annually outside of the District of Columbia. The Budget Bureau is directed to include this amount in each annual budget. The Secretary of the Treasury and the Postmaster General are charged jointly with the responsibility of selecting the places where post-office buildings shall be erected. Is your district likely to fare better under the old pork-barrel-log-rolling system or under this new method? Which is likely to be more economical? The more just?

8. Referring to Rule 22 of the Senate which permits unlimited debate and makes filibustering possible, Vice President Dawes said: "That rule which at times enables senators to consume in oratory those last precious minutes of a session needed for momentous decisions, places in the hands of one or of a minority of senators a greater power than the veto power exercised under the Constitution by the President of the United States."

On the other hand, Senator Norris of Nebraska claims that filibustering by one or by a minority may be justifiable. He instances the ship-subsidy bill under President Harding's administration. He says there was no chance to pass this bill during the first session, but that after the election when a number of members were defeated the second session would have passed the measure by votes of defeated members who desired to support the President's measure and thus ingratiate themselves for appointment to some good post. But a filibuster prevented it.

There are now four constitutional checks on popular government. The voters are represented by elected members of Congress, there are two Houses to check one another, the President has the veto, and the courts may declare an Act of Congress unconstitutional. Do we need an additional check, the filibuster?

9. Have one member of the class write to the representative from your district for copies of several important and timely bills being considered by Congress; and have a different member of the class report on each of these bills.

10. Prepare a bill on some subject in which you are interested. All bills must begin with the following enacting clause:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that, etc.

CHAPTER VIII

THE EXECUTIVE DEPARTMENT

I. THE PRESIDENT

Qualifications of the President. — The President of the United States must be a natural born citizen of the United States, must be at least thirty-five years of age, and must have been for fourteen years a resident within the United States.

Election of the President. — The framers of the Constitution intended to remove the office of chief magistrate so far as possible from the passions of the masses. Accordingly they arranged that the President should be chosen indirectly by a "college of electors" composed of as many members as there are representatives and senators in Congress. These electors were expected to use their own judgment and to select the fittest person for the presidency. This system of electing the President continues, but since Washington's two terms (1789–1797), *i.e.*, since political parties became well defined, these electors have been merely honorary mouthpieces to vote as their political party directs.

Each State is entitled to as many electors as it has representatives and senators in Congress, and may select them in any manner that the State legislature desires. At first the legislatures themselves chose the electors, and chose those who were known to favor certain candidates. This method was considered undemocratic, and gradually the legislatures transferred the choice of the electors from themselves to the voters of the respective States.

In some States two electors were chosen by the voters of the State-at-large, and the remaining electors were chosen by con-

gressional districts. The result was that some districts chose Democratic electors, while others chose Republican electors. But the majority party of each State saw that all its electors could be elected if they were chosen at large, and naturally the majority party abandoned the district system in favor of the State-wide system.

To-day all States choose their quota of electors by a general State-wide ticket; thus a State whose Democratic voters are in the majority will select all Democratic electors, and a State whose Republican voters are in the majority will select all Republican electors.¹ For instance, in 1884 the Democratic party in New York had a majority of only about 1000 in a total vote of more than 1,000,000; but all of the thirty-six Democratic electors were chosen and cast their votes for the Democratic candidate, Mr. Cleveland. On the other hand, the Republican party in Pennsylvania had a majority of 81,000 in a total vote of 866,000, and hence all of the Republican electors were chosen. In other words, in these two States Blaine received 80,000 more popular votes than Cleveland, but Cleveland received six more electoral votes than Blaine. If the Democrats had not carried New York State, Blaine would have been elected President of the United States instead of Cleveland.

On several occasions the presidential candidate who received the most popular votes throughout the country did not receive the most electoral votes, and was therefore not elected. For instance, in 1888 Harrison received 233 electoral votes against Cleveland's 168 and was elected, though Cleveland received about 100,000 more popular votes than Harrison. This was

¹ There are numerous instances where the electoral vote of a State has been divided, even with the State-wide ticket. In 1908 Maryland gave two electoral votes to Taft and six to Bryan, although a small majority of the voters of the State thought they were casting their full vote for Taft. The election was so close that the few voters who blundered by marking their ballots for the first-named Taft electors only, believing that they were thereby voting for all of the Taft electors, caused six votes to go to Bryan. On another occasion one of the electors in California was defeated because of a decision he had rendered as a judge.

STATES	POPULAR VOTE		ELECTORAL VOTE	
	Harrison	Cleveland	Harrison	Cleveland
Alabama	56,197	117,320	—	10
Arkansas	58,752	85,962	—	7
California	124,816	117,729	8	—
Colorado	50,774	37,567	3	—
Connecticut	74,584	74,920	—	6
Delaware	12,973	16,414	—	3
Florida	26,657	39,561	—	4
Georgia	40,496	100,499	—	12
Illinois	370,473	348,278	22	—
Indiana	263,361	261,013	15	—
Iowa	211,598	179,887	13	—
Kansas	182,934	103,744	9	—
Kentucky	155,134	183,800	—	13
Louisiana	30,484	85,032	—	8
Maine	73,734	50,481	6	—
Maryland	99,986	106,168	—	8
Massachusetts	183,892	151,856	14	—
Michigan	236,370	213,459	13	—
Minnesota	142,492	104,385	7	—
Mississippi	30,096	85,471	—	9
Missouri	236,257	261,974	—	16
Nebraska	108,425	80,552	5	—
Nevada	7,229	5,362	3	—
New Hampshire	45,728	43,458	4	—
New Jersey	144,344	151,493	—	9
New York	648,759	635,757	36	—
North Carolina	134,784	147,902	—	11
Ohio	416,054	396,455	23	—
Oregon	33,291	26,522	3	—
Pennsylvania	526,091	446,633	30	—
Rhode Island	21,968	17,530	4	—
South Carolina	13,736	65,825	—	9
Tennessee	138,988	158,779	—	12
Texas	88,422	234,883	—	13
Vermont	45,192	16,785	4	—
Virginia	150,438	151,977	—	12
West Virginia	77,791	79,664	—	6
Wisconsin	176,553	155,232	11	—
Total	5,439,853	5,540,329	233	168

due to the fact that Cleveland's electors piled up votes in the Southern States, whereas the Harrison electors carried Northern States by small majorities. The accompanying table shows exactly how the popular vote and electoral vote were cast for each candidate at this election.

In brief, the President is to-day elected as follows: Each political party nominates a candidate for the presidency at a national convention (see page 406) held in June or July of the "presidential year." About the same time the various parties in each State nominate, in any manner the State legislature permits, the quota of electors to which the State is entitled. These nominees are voted for in the various States on the Tuesday following the first Monday of November in each "leap year." To illustrate, a Republican in Massachusetts votes for the eighteen Republican electors as shown on the ballot on page 180. (Reduced to 17 electors for subsequent elections by the reapportionment of 1931.)

If, after the State election board has received all the returns of the election from the various local election boards, it is found that the Republican electors have received more votes than any other set of electors, they assemble at the capital city,¹ Boston, and cast their votes the first Wednesday of the January next following. These votes are signed by each elector, sealed, and sent by registered mail to the president of the United States Senate.² Other States follow the same method.

On the second Wednesday in February the president of the Senate opens these returns and, in the presence of the two

¹ The law provides that the electors shall meet "at such place in each State as the legislature of such State shall direct." All of the legislatures seem to have designated their State capitals.

² Two lists of votes are sent to the State Secretary of State, two to the U. S. Secretary of State, and one to the local U. S. District Judge. If the president of the Senate, or the U. S. Secretary of State, does not receive the votes of any State and cannot obtain them from the State Secretary of State by the 4th Wednesday of January, he sends a special messenger for the votes filed with the District Judge.

List of Candidates nominated, to be voted for in Holyoke, Ward 1, Precinct A, November 6, 1928

Frederic W. Cook
Secretary of the Commission

Penalty for wilfully defacing, tearing down, removing or destroying a list of candidates or specimen ballot, fine not exceeding one hundred dollars

180

houses, counts them and declares the candidate elected who has received the majority of electoral votes (now 531). If no candidate has a majority (266) of all the electoral votes, the House of Representatives elects one of the three leading candidates, the representatives from each of the 48 States casting one vote. If no candidate receives a majority (25) of these votes by the fourth of March next following, the Vice-President is inaugurated as President.¹

The uselessness of our Electoral College was expressed in an interesting way by Elbert Hubbard in the following sentences: "The original argument [in favor of the Electoral College] was that the people should not vote directly for President, because the candidate might live a long way off, and the voter could not know whether he was fit or not. So they let the citizen vote for a wise and honest elector he knew. The result is that we all now know the candidates for President, but we do not know the electors. The Electoral College in America is just about as useful as the two buttons on the back of a man's coat, put there originally to support a sword belt. We have discarded the sword, yet we cling to our buttons."

Nevertheless, it would not be practical to elect the President by a direct popular vote of the people: (1) because a State with unrestricted suffrage casts many more votes than a State of the same population with suffrage restricted by educational qualifications, and (2) because the election officials of a one-party State would be tempted to "stuff the ballot box" if every vote counted.

Presidential electors, however, should be dispensed with, each State retaining its apportioned number of electoral votes. Then the voters would cast their ballots directly for the presidential candidate of their preference, and the candidate receiving

¹ Three vital objections have been suggested against electing the President by the House: (1) it is the old House and not the newly elected one that acts; (2) a small State, like Nevada, has the same vote as a large State, like New York; and (3) if the House membership of a State divides equally, the State loses its vote. Fortunately, an election is seldom thrown into the House.

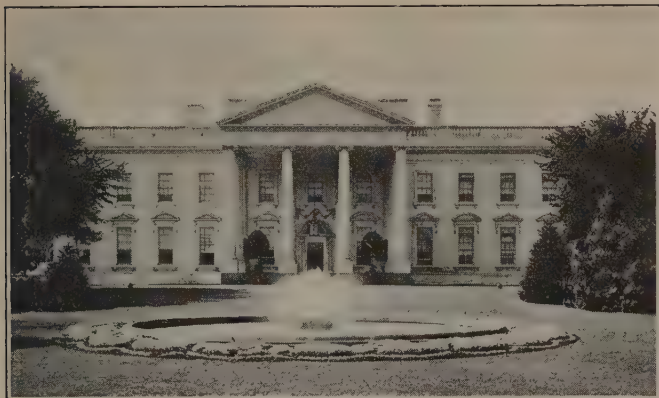
the most popular votes in each State would be entitled to all the electoral votes of the State. This method of electing the President would save the trouble of nominating presidential electors, the cost of printing their names on the ballots, the expense of having them assemble at the State capital or other convenient place to cast their votes, and would avoid the difficulties arising from the death of electors before their votes are cast.

Term of the President. — The President-elect is inducted into office on March fourth following his election, and serves until the fourth of March four years later. There is no legal limit to the number of terms he may serve, though in practice no President has been elected oftener than twice.

Succession to the Presidency. — The Constitution provides that in case the President is removed by impeachment, death, resignation, or inability, his duties shall devolve upon the Vice-President; and by the Presidential Succession Act of 1886 it is provided that in case of the inability of both the President and Vice-President to perform the duties of the office, the cabinet officers shall succeed in the following order: (1) Secretary of State; (2) Secretary of the Treasury; (3) Secretary of War; (4) Attorney-General; (5) Postmaster-General; (6) Secretary of the Navy; (7) Secretary of the Interior.

Compensation of the President. — The President's salary is determined by Congress, but the amount may be neither increased nor diminished during the period for which he is elected. From 1789 until 1873, the beginning of Grant's second term, the salary of the President was \$25,000; from the latter date until 1909, \$50,000; since 1909 his salary has been \$75,000 a year, plus \$25,000 or as much thereof as needed for traveling and official entertainment expenses,¹ and the

¹ Previous to President Taft's administration, when a President traveled he ordered a special car and the railroads never presented a bill. This seemed to place the President under obligations to the railroad corporations; and to avoid this embarrassment Congress began the annual appropriation of \$25,000 for the President's traveling expenses. President Coolidge was



THE WHITE HOUSE.

Above: Front view. *Below:* Rear view. Free rent of this \$2,500,000 residence is a standing offer to some natural born American citizen every four years.

use of the Executive Mansion, commonly called "The White House."¹

Duties and Powers of the President. — In order that the President may perform the various duties which the Constitution, Acts of Congress, treaties, and customs place upon him, he has to have corresponding powers. As the head of the executive branch of government it is his duty to see that the Constitution, law and treaties, and decisions of the Federal courts are enforced. To perform this duty he has been given power to appoint and dismiss thousands of officers; command the army and navy; call extra sessions of Congress, recommend proper legislation, and veto improper bills. The sum total of his powers is much greater than that of many constitutional monarchs.

not a traveler, so Congress began to add the phrase "and official entertainment."

Under official entertainment the President must have a White House Dinner for the visiting King of Siam, Queen of Rumania, and President of Haiti; a diplomatic reception, a judicial reception, a congressional reception, an army and navy reception, and a New Year's reception; a dinner to the diplomatic corps, a dinner to the Supreme Court, and a dinner to the Speaker of the House; breakfasts in the official dining room for congressmen with whom he must confer regarding legislation or foreign policies, with the editor of the New York Times, the manager of the Hearst chain of publications, and representatives of influential organizations without end.

Among the half hundred publicly paid employees for the White House and grounds some twenty are household servants whom the President must feed from his private purse. Of course the sausages and cakes consumed at official breakfasts are paid for under "official entertainment"; and if near-by servants should note some surviving official sausages and cakes and should eat them up, they presumably do it in an official moment and as official characters.

¹Other appropriations made in connection with the presidential office for 1931-32 were: For Executive Mansion — care, maintenance, repair, refurnishing, improvement, heating and lighting, greenhouses and grounds, \$185,000. For Executive Office — secretary, clerks, stenographers, etc., \$126,180; contingent expenses including stationery, telegrams, furnishings, automobiles, labor, etc., \$43,500. For White House police, and other protection of the President, as much as necessary (about \$100,000).

A pension is sometimes given the widow of a president. For example, Mrs. Roosevelt and Mrs. Wilson were each granted \$5000 a year.

An aggressive President who becomes party leader or a national hero can greatly increase his powers by a loose construction of the Constitution. During the Civil War Congress permitted Lincoln to become practically a dictator. He issued a proclamation suspending the writ of *habeas corpus*, which



PRESIDENT HOOVER OPENING THE BASEBALL SEASON.

Congress subsequently legalized. He also issued the emancipation proclamations of 1862 and 1863, declaring all slaves in the insurgent States to be thenceforth free; and he secured the adoption of the Thirteenth Amendment in 1865 legalizing the proclamations. Though the President cannot declare war he can at any time bring on war, by ordering the army into foreign territory, or by managing foreign affairs in such a manner that a foreign nation will become the aggressor.

Start **Power of Appointment.** — The Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other pub-

lic ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for,¹ and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law,² or in the heads of the departments."

The United States has on its pay-roll nearly a million persons. Excluding the legislative and judicial branches, the army, navy, marine corps, coast guard, and government of the District of Columbia, we have over 600,000 in the executive civil service. Of these the President unaided appoints very few; with the consent of the Senate he appoints about 18,000 of the most important; over 460,000 are selected by civil service competitive examinations; and the remainder, many of whom are laborers, are appointed directly or indirectly by cabinet officers. But because the cabinet officers are themselves dependent upon the President, he can influence many of these appointments if he desires.

The President alone appoints his private secretary, who in turn appoints his subordinates; and with a few unimportant exceptions, *e.g.*, during the administrations of Johnson, Grant, and Coolidge, the Senate has always approved cabinet officers appointed by a President. For special reasons Congress has from time to time provided that certain officers, such as the Librarian of Congress, shall be appointed by the President alone.

The President with the consent of the Senate appoints the most important officers.³ For the positions to be filled within a

¹ The officers whose appointments are "otherwise provided for" are the President, Vice-President, electors, senators, representatives, and officers of the Senate and House of Representatives.

² Courts of law appoint clerks, reporters, and other minor ministerial officers.

³ This class includes such officers as ambassadors, ministers, and consuls; Federal judges; most military and naval officers; cabinet officers and their immediate subordinates; the Treasurer of the United States; the Comptroller of the Currency; superintendents of mints; commissioners of internal revenue; collectors of customs and internal revenue; interstate commerce commissioners; Federal trade commissioners; commissioners of patents;

congressional district, the President usually confers with the representative from that district if he is of the same party; for the more important ones, the senators will be consulted. When the Senate receives the names of persons selected for positions, it refers them to the appropriate standing committee; and the committee confers with the senators of the State from which the nominee comes, provided the senators are of the President's party. Under the practice known as "senatorial courtesy" the Senate will ratify only those appointments which are approved by the senators (of the President's party) from the State in which the offices in question are to be filled. But this practice of senatorial courtesy does not apply to offices in the foreign service, army and navy, or those in the District of Columbia.

The Civil Service Commission examines applicants for nearly half a million positions, and the President and other higher officers make appointments according to civil service rules.¹

Heads of Departments directly or indirectly appoint about 120,000 employees without civil service examinations. The greater number of these are skilled or unskilled laborers.

Term of Officers. — Most of the important officials are appointed for four years.² The cabinet officers are appointed to serve during the pleasure of the President, but they almost always resign when a new President enters office. The terms of minor officers and laborers vary, and persons who enter the civil service through competitive examinations hold office for an indefinite term.

commissioners of pensions; pension agents; Indian agents; district attorneys and marshals; territorial governors; and postmasters of the first, second, and third classes (any postmaster whose salary is \$1100 or more). See footnote on page 256.

¹ This class includes most of the clerks in Washington, four classes of postmasters, first and second class post-office clerks, railway mail clerks, letter carriers, rural free-delivery men, and employees in the Indian service, custom houses, revenue service, and the government printing office.

² Four years is the term for territorial judges and governors, marshals, district attorneys, customs collectors, pension agents, Indian agents, and chiefs of many bureaus.

Power of Removal. — The President may remove without the consent of the Senate any officer whom he appoints alone or in conjunction with the Senate, except judges, who may be removed by impeachment only. His power to remove officers may not be restricted by Congress¹ and may be employed for political purposes as well as for ridding the service of incompetent and unfit persons. Those who have entered office through competitive examinations may be removed or reduced for any cause which will promote the efficiency of the service; but the President is directed to impose like penalties for like offenses, and no political or religious discrimination is supposed to be shown.

Receiving Diplomatic Representatives. — The President receives ambassadors and ministers sent to the United States. Upon an appointed day the Secretary of State escorts a new minister or ambassador to the White House, where the latter delivers a short ceremonial address to which the President responds. The minister or ambassador is then recognized as the official organ of communication between the United States government and the government represented. When the independence of a country is in doubt, or the representative is personally objec-

¹ The Constitution provides impeachment for removing civil officers, but to use this cumbersome method to remove a minor officer would be like shooting birds with artillery intended for battle ships. Therefore the first Congress decided that the President has power to remove all officers appointed by him (except judges) without the consent of the Senate. Few removals were made until Jackson introduced the "spoils system"; but the President's right to remove was acknowledged by all parties until the controversy between Congress and President Johnson resulted in the Tenure of Office Act, which forbade the President to remove officers without the consent of the Senate. Mr. Johnson considered this Act unconstitutional, violated it, and was impeached. The Act was repealed in 1887.

An Act passed in 1876 forbade the President to remove first-, second-, and third-class postmasters before the end of their four-year terms without the consent of the Senate. In 1920 President Wilson removed the postmaster of Portland, Oregon, without asking the consent of the Senate. The postmaster appealed to the United States Supreme Court, citing the Act of 1876. But in 1926 the Court declared this Act unconstitutional, thus sustaining the right of the President to remove from office all presidential appointees, except judges. (See *Myers v. U. S.*)

tionable to the United States government, the President may refuse to receive him; and the President may request a foreign country to recall a representative, or dismiss one for conduct offensive to the government.

Treaty Power. — If the United States desires to enter into commercial compacts, define its boundaries, make peace, or enter into any other compacts appropriate for international agreements, the President, with the assistance of the State Department, may negotiate a treaty with the other state or states concerned. Because a treaty becomes law, the Constitution provides that a vote of two thirds of the Senate present is necessary before the treaty may be signed by the representatives of the United States government.¹

Military Powers of the President. — As the Constitution makes the President commander-in-chief of the army and navy, he has complete control over their movements. For instance, when Mr. Roosevelt was President, he sent the navy around the world in order that the men might gain experience and that other nations might be impressed with its strength. Some congressmen objected to the cost and threatened to withhold the necessary appropriation. Mr. Roosevelt is said to have replied: "Very well, the existing appropriation will carry the navy half-way around the world and if Congress chooses to leave it on the other side, all right." President Polk brought on the Mexican War by ordering the troops across the Nueces River, and President Wilson narrowly averted another war with Mexico in 1914 when he sent the navy to Vera Cruz.

¹ As a treaty is merely a law, Congress may repeal it by passing a law contrary to its provisions; or an existing law may be repealed by the terms of a treaty. In other words, when a treaty and a law of Congress conflict, a court will consider the one last enacted to be the law. A treaty which is contrary to the Constitution is void, but the courts have, as yet, never declared one to be contrary to the Constitution.

Money cannot be appropriated by a treaty, but in practice whenever the Senate has agreed to a treaty providing for the payment of money, the House has concurred on a bill appropriating it.

The President directs campaigns and could take personal command of the army or navy if he wished. So long as he acts within the rules of international law he may do anything to weaken the power of the enemy. For instance, he may order the confiscation of property used by the enemy for warlike pur-

*Harris & Ewing.*

PRESIDENT HOOVER SPEAKING AT THE YORKTOWN
SESQUI-CENTENNIAL.

poses. In the exercise of this power President Lincoln issued the Emancipation Proclamation during the Civil War, freeing the slaves in certain Southern States.

Whenever the enforcement of Federal laws is prevented by combinations too strong to be suppressed by the courts with their marshals, the President may send United States regular troops to protect the mails and interstate commerce, as Cleveland did in 1894 during the Pullman strike at Chicago; or he may call out State militia, as Lincoln did in 1861. When the army occupies the enemy's territory, the President, as commander-in-chief, may assume control of the enemy government,

as Lincoln did in certain Southern States during the Civil War, or as McKinley did in Porto Rico and the Philippines during the Spanish-American War.

In case of domestic violence, the legislature of a State, or the governor, if the legislature is not in session, may request the President to send regular troops into the State to restore order.

President's Part in Legislation. — The President is primarily an executive officer, but the Constitution bestows upon him many powers which enable him to influence legislation.

Presidential Messages. — When Congress meets in December, the President sends his annual message to Congress, and from time to time during the term he sends special messages. In these messages he recommends the enactment of certain laws. They may be laws which the party platform pledged to enact, laws recommended by heads of the departments of administration, or possibly a personal hobby. Most presidents have had their messages read in each house by a clerk, but Wilson and Harding read their messages to the two houses assembled in one of the chambers. Different parts of the messages are referred to appropriate committees. Full reports from the heads of departments usually accompany the annual message. The consideration of the recommendations depends upon the influence of the President. The message is at least valuable to form public opinion. It is broadcast by radio, and the daily papers publish the message in full and comment extensively upon it.

Extraordinary Sessions. — A President may call an extra session of Congress whenever he deems it proper. In 1921 President Harding called an extra session. When it convened he appeared in person before the houses meeting in joint session, and urged tariff and tax revision. The session continued from April 11 until November 23. During this time Congress revised the tax laws, passed a budget law, and debated the tariff at some length. President Hoover, likewise, convened an extra session in 1929 for tariff legislation and farm relief.

Issue of Ordinances. — When the President must execute a law which does not specify means for its enforcement, it is necessary for him to issue an ordinance prescribing uniform means for its enforcement. Inasmuch as the Constitution makes the President commander-in-chief of the army and navy he may issue ordinances for their regulation. Congress frequently authorizes the President to issue ordinances for specific purposes. For instance, Congress has authorized the President to govern the Panama Canal Zone, and in so doing he has the power to issue legislative ordinances.¹ Again, the 1930 Tariff Act authorizes the President to raise or lower tariff schedules; and in 1931, when fresh eggs dropped to 12 cents a dozen, President Hoover proclaimed an increase in the duty on dried eggs from 18 cents to 27 cents a pound and thus removed the competition of "China eggs."

The Veto. — Every bill or joint resolution² passed by Congress must be presented to the President for his signature. If he signs, it becomes a law; if he disapproves, he must return the

¹ The following proclamation issued by President Taft, as governor of the Canal Zone, is an example of ordinances issued by the President:

"I, William Howard Taft, President of the United States of America, by virtue of the power and authority vested in me by the Act of Congress, approved August 24, 1912, to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone, do hereby prescribe and proclaim the following rates of toll to be paid by vessels using the Panama Canal:

1. On merchant vessels carrying passengers or cargo, one dollar and twenty cents (\$1.20) per net vessel ton — each one hundred (100) cubic feet of actual earning capacity.

2. On vessels in ballast without passengers or cargo, forty (40) per cent less than the rate of tolls for vessels with passengers or cargo.

3. Upon naval vessels other than transports, colliers, hospital ships, and supply ships, one dollar and twenty cents (\$1.20) per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

The Secretary of War will prepare and prescribe such rules for the measurement of vessels and such regulations as may be necessary and proper to carry this proclamation into full force and effect."

² Joint resolutions proposing amendments to the Constitution are not sent to the President. This is the only exception.

bill to the house in which it originated, giving his reason for his refusal to sign. The house may then reconsider it, and if the bill passes both houses by a two-thirds vote, as did the bill to increase the loan value of certain World War Veterans'



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PRESIDENT HOOVER AND CABINET LEAVING CAPITOL AFTER
ADJOURNMENT OF THE 71ST CONGRESS.

Through courtesy to Congress the President goes to the Capitol March 4th, when a term of Congress is about to end, to veto bills if he opposes them. This gives Congress a chance to pass them over his veto.

insurance, it becomes a law over the President's veto. If the President fails to return a measure within ten days, Sundays excepted, after it is presented to him, it becomes a law without his signature, unless Congress prevents its return by adjourning, in which case it does not become a law. When Congress adjourns before the ten-day period has expired, the President may suppress quietly the bills to which he entertains objection

by merely allowing them to remain on his table — die in his pocket, as it were. This is known as the “pocket veto.”

This veto power enables the President, who is the only representative of *all* the people, to act as a check upon the legislative branch. Unfortunately the President must sign or veto a bill in its entirety. If he could veto certain items in appropriation bills, as the governors of many States may do, a bold President could save much revenue by preventing appropriations for such purposes as dredging rivers where there is little navigation or building post offices where government buildings are not needed.

Inasmuch as the President can introduce a bill into Congress only through some congressman, he seldom prepares one; but if he is party leader he coöperates with any committee of Congress that is preparing an important bill. For instance, when the Currency Bill was being prepared during the summer of 1913, Congressman Glass, Chairman of the Banking and Currency Committee, was continually conferring with President Wilson, and relying upon his influence as party leader to secure the passage of the measure.

Extra-Legal Methods. — There are many indirect methods by which a President can persuade congressmen to support his measures, although he has no part directly in legislation. Roosevelt threatened to “take the stump” against congressmen who would not support his measures, and Lincoln allowed a congressman to name the appointee to a \$20,000 position in the Custom House of New York in consideration of a vote which was necessary to admit Nevada into the Union, for without Nevada’s vote the Thirteenth Amendment to the Constitution of the United States could not have been ratified.

In 1923 Congress appropriated \$56,000,000 for river and harbor improvements, — more than the President and budget bureau had proposed. The Secretary of War announced the projects upon which \$40,000,000 of this appropriation would be expended. It was believed that the President directed the

Secretary of War to save the \$16,000,000 merely by abstaining from the expenditure of this portion of the amount authorized.

Pardoning Power. — The pardoning power of the President is absolute for all offenses against the United States, except in cases of impeachment, where a pardon may never be granted. Of course he cannot pardon offenses against State laws; but for crimes committed in territories or the District of Columbia, or offenses against Federal laws such as the postal, revenue, or banking laws, the accused may be pardoned either before or after conviction.

If an individual is involved, a pardon is seldom granted before conviction. But in 1889 President Harrison issued a proclamation known as *amnesty*, which pardoned the Mormons who had violated the anti-polygamy laws applying to the territories of the United States. The President may pardon conditionally provided the condition is reasonable, or he may *commute* a sentence by decreasing the penalty. He may reduce a fine or remit it entirely.

A central Board of Parole, created by Congress in 1930, has authority to release Federal prisoners on parole with the assent of the Attorney-General.

Independence of the President. — The President, as head of one of the three branches of government, must have a degree of independence of the other two branches, else he would not remain a check upon them. So long as the President is in office — and he may be removed only by impeachment — he may not be arrested. But as soon as he is out of office he may be punished for any crime committed by him while in office. The courts can neither restrain nor compel him to perform any act. When Aaron Burr was being tried for treason Chief Justice Marshall issued a subpoena requiring President Jefferson to produce a certain paper relating to Burr's acts. Jefferson refused to obey. He reasoned that the duties of a President could not be performed if he could be compelled to obey court writs.

II. THE VICE-PRESIDENT

The Vice-President is elected by the same electors and in the same manner as the President, except that when no Vice-Presidential candidate receives a majority of the electoral votes the Vice-President is chosen by the Senate from the two candidates receiving the highest number of electoral votes.

The qualifications for the Vice-President are the same as for the President. His salary is \$15,000 and his only legal duty, unless he succeeds to the presidency, is to preside over the Senate. As he is not a member of the Senate, does not appoint committees, and has no vote except in case of a tie, he has little influence. President Harding had the Vice-President attend Cabinet meetings; Vice-President Dawes declined an invitation to attend; but Vice-President Curtis accepted President Hoover's invitation to attend. There are three good reasons why Mr. Curtis should attend: first, he has thirty years of legislative experience to contribute; second, he is a link between the Cabinet and the Senate; and third, if the President should die the Vice President would be in closer touch with the President's problems.

A candidate for the Vice-Presidency is not always nominated because of his fitness to become President. He may be nominated to help carry a doubtful State, to appease a defeated faction in the national nominating convention, or to replenish the party treasury.

III. THE CABINET

In order that the President may have assistants in executing the laws, Congress has authorized him to appoint ten chiefs.¹ Washington was authorized to appoint only three: a Secretary of State, a Secretary of the Treasury, and a Secretary of War.²

¹ The statutes creating these offices provide for the assent of the Senate, but in practice the Senate seldom interferes with the President's choice.

² The Attorney-General was also considered a member of Washington's Cabinet, but he was not the head of a department until 1870, when the Department of Justice was created.

As governmental duties increased, however, the work of administration was further divided and Congress created new departments with secretaries. There are now ten chief assistants:

NAME OF OFFICE	OFFICE CREATED IN
1. The Secretary of State	1789
2. The Secretary of the Treasury	1789
3. The Secretary of War	1789
4. The Attorney-General	1789
5. The Postmaster-General	1794
6. The Secretary of the Navy	1798
7. The Secretary of the Interior	1849
8. The Secretary of Agriculture	1889
9. The Secretary of Commerce	1903
10. The Secretary of Labor	1913

These ten secretaries are appointed by the President for indefinite terms, and as he alone is responsible for the official action of any secretary he may dismiss him at any time. A new President always selects some new Cabinet officers, and a President of a different party from his predecessor selects an entirely new Cabinet. The Cabinet meets twice a week, or as often as the President desires, in the executive offices, which adjoin the White House. The meetings are secret and only the weightier matters are discussed, as the President meets the chiefs of each executive department alone to discuss the less important affairs.

There is no provision for the Cabinet either in the Constitution or in the Statutes of Congress. The Constitution says, "The President may require the opinion in writing of the principal officers in each of the executive departments upon any subject relating to the duties of their respective offices." (Art. II, Sec. 2.) At first Washington requested written opinions, but by his second term he held secret meetings, which were called "cabinet meetings."

The President could invite persons other than departmental heads and the Vice-President to attend the cabinet meetings, but he does not do so; and he is not compelled to take the advice of

the Cabinet contrary to his own judgment. This is illustrated by an incident told of President Lincoln. He brought before his Cabinet a proposition which he favored, but every member of his Cabinet voted against it. He announced the vote, "Seven nays, one aye; the ayes have it."



Harris and Ewing.

PRESIDENT HOOVER AND HIS CABINET.¹

Left to right, seated: Secretary Hurley; Vice-President Curtis; President Hoover; Secretaries Stimson and Mellon.¹

Standing: Secretaries Lamont and Wilbur; Postmaster-General Brown; Attorney-General Mitchell; Secretaries Hyde, Adams, and Doak.

OUTLINE FOR REVIEW

The Executive Department

I. PRESIDENT.

(A) Qualifications:

- (1) Natural born citizen of the United States.
- (2) Thirty-five years of age:
- (3) Fourteen years a resident of the United States.

¹ Ogden L. Mills is now Secretary of the Treasury in place of Andrew Mellon, who has become Ambassador to Great Britain.

- (B) Elected :
 - (1) By Electoral College, or
 - (2) By House of Representatives.
- (C) Oath : Taken when inaugurated.
- (D) Term : Four years.
- (E) Vacancy :
 - (1) Filled by Vice-President, or
 - (2) By Cabinet Officer, according to law of presidential succession.
- (F) Salary :
 - (1) \$75,000 + \$25,000 for traveling and official entertainment.
 - (2) White House, servants, autos, etc.
- (G) Powers and Duties :
 - (1) Executes the laws of the nation.
 - (2) Appoints ministers, consuls, judges, postmasters, and other officers.
 - (3) May remove officers and fill vacancies.
 - (4) Receives foreign ministers, etc.
 - (5) May make treaties with consent of two thirds of Senate.
 - (6) Commander-in-Chief of the army and navy.
 - (7) Delivers a message to Congress each December and at other times.
 - (8) May call special session of Congress or of either House.
 - (9) Signs or vetoes bills passed by Congress.
 - (10) May grant reprieves and pardons.
- (H) Removal :
 - (1) May be impeached by majority of House.
 - (2) May be tried and convicted by two thirds of Senate.

II. VICE-PRESIDENT.

- (A) Qualifications : The same as required for the President.
- (B) Elected :
 - (1) By the Electoral College, or
 - (2) By the Senate.

(C) Term:	Four years.
(D) Vacancy:	Not filled until next presidential election.
(E) Salary:	\$15,000.
(F) Duty:	Presides over Senate and votes only in case of tie. Becomes President if President dies or is in any way disqualified.

III. TEN CABINET MEMBERS (non-official).

(A) Qualifications:	None prescribed.
(B) Appointed:	By President, with consent of Senate.
(C) Term:	Indefinite.
(D) Salary:	\$15,000.
(E) Duty:	To advise President and administer their respective departments according to the will of the President.

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QUESTIONS ON THE TEXT

1. What are the qualifications for the presidency?
2. Explain in detail how a President is elected.
3. For what term is a President chosen? May he succeed himself?
4. Who succeeds to the presidency in case the President does not complete his term?
5. What is the annual salary of the President?
6. What are the powers of the President?

7. What officers are appointed by the President alone? President and Senate? President and Civil Service Commission?
8. How are other officers chosen?
9. For what term are the various officers chosen?
10. What officers may be removed by the President?
11. Who appoints diplomatic officers? Who receives those from foreign countries?
12. Who makes treaties? If a treaty and law of Congress conflict, which will the courts enforce?
13. What powers has the President as commander-in-chief of the army and navy?
14. Explain the President's power over legislation by means of (1) messages, (2) extraordinary sessions, (3) the issuance of ordinances, (4) the veto, and (5) extra-legal methods.
15. What persons may be pardoned by the President? May he pardon such persons conditionally? May he return a fine? May he commute a sentence? What is meant by *amnesty*?
16. Can a court compel the President to perform a duty? Can he be punished after he is out of office for a crime committed while in office?
17. How is the Vice-President chosen? Term? Qualifications? Salary? Duties?
18. How many members are there in the President's cabinet? Name as many as you can. For what term are they appointed? Salary? Need the President accept their advice?

QUESTIONS FOR DISCUSSION

1. What Article of the Constitution treats of the President?
2. Explain how Mr. Harrison was elected President in 1888 although Mr. Cleveland received more popular votes.
3. The indirect method of electing the President of the United States is no longer of value. Discuss a better method.
4. How could the President's term be increased to six years?
5. In case no candidate for President receives a majority of the electoral votes the House of Representatives proceeds to choose a President from the three highest candidates. The representatives from each State have one vote. Following the election of 1912 the House had a majority of Democrats from 24 States and a majority of Republicans from 24 States. Had the election been thrown into the House as was probable because of the three candidates, what would have happened?
6. Would you favor an Amendment to the Constitution providing that the newly elected Congress should convene the first week in Jan-

uary following the election and that the President should be inaugurated every four years the second week in January — allowing a week for Congress to count the electoral vote?

7. When President Coolidge appointed Mr. C. B. Warren of Michigan Attorney-General, the Senate's ballot was a tie. Vice-President Dawes was not present. Did the president *pro tempore* of the Senate have a right to vote as chairman and break the tie, having already voted as a member of the Senate?

8. Why is the President usually unrestricted in selecting and dismissing the members of his Cabinet?

9. When Mr. Hoover became President he retained Andrew Mellon, who had served in Mr. Coolidge's Cabinet, as Secretary of the Treasury. He did not send Mellon's name to the Senate for approval along with the newly appointed members. Mr. Hoover was acting according to precedent, but some senators wanted the name sent. Why?

10. What Federal officers or employees reside or have duties in your city or county? How are they appointed?

11. The veto power has, in times past, been considered an instrument of kingship, but no king or queen of England has dared to use it for two centuries. Yet Andrew Jackson, the "Father of Democracy," was the President who used this power most extensively. Explain why this apparent inconsistency is really not inconsistent.

12. The President of France may veto a bill and state his reasons, but a bare majority of the House of Deputies and the Senate may override it. Do you prefer the French or the American veto?

13. The President has absolute pardoning power for all offenses committed against the United States, except in cases of impeachment. Under what circumstances do you think this power should be used?

14. Why is the vice-presidential office one of the worst features of our government?

15. President Washington appointed members of both political parties to his first Cabinet. Later he selected the members entirely from one political party. That is the present policy. Why? Name the members of the present-day Cabinet. (See Congressional Directory or World Almanac.)

16. Explain how the President can influence the enforcement of prohibition through his power to appoint each of the following: Supreme Court judges, district judges, attorney-general, and prohibition commissioner. (See pages 328-332, 640, 642.)

17. In 1921 there were provisions in the Army Appropriation Bill prohibiting the President from using any of the army appropriation money to maintain troops in China, or more than 500 in Europe, or more

than 5000 in the Panama Canal Zone, or more than 5000 in Hawaii. This provision was finally eliminated from the bill. If it had remained, should the President have vetoed it? What constitutional question is involved?

18. If Congress should appropriate money for naval vessels with the provision that the President shall not order them to European or Asiatic waters, would the restriction be binding?

19. Would a State with a large population or one with a small population gain influence by the popular direct election of the President? Would you vote *for* or *against* it if you lived in Nevada? In New York?

20. Would the popular direct election of the President be an incentive for honest or dishonest elections in a one-party State such as Pennsylvania or South Carolina? In the direct election every vote would count. Would it be to the advantage of urban or rural States?

21. During President Wilson's second term he induced the House of Representatives to pass a bill placing first-, second-, and third-class postmasters, as well as those of the fourth class, under permanent civil service tenure. The Senate refused to pass the bill. Why? (See pages 187, note, and 304-307.)

22. After the above legislation failed President Wilson issued an executive order directing the Civil Service Commission to examine all postmasters. Under this examination nearly all of the postmasters, who were then Democrats, qualified and were reappointed.

When Mr. Harding became President he thought it wise to continue the system of examinations, but when the four-year terms of Democrats expired he appointed only Republicans, whether or not they made the highest grades. Mr. Coolidge and Mr. Hoover continued the practice. What can be said in favor of this practice? Would you prefer non-partisan appointment and permanent tenure for postmasters?

23. It is the duty of the President "to do anything that the needs of the nation demand unless such action is forbidden by the Constitution or the laws," said President Roosevelt. President Taft held that the President can exercise no power which is not conferred on him by the Constitution or laws, or which cannot be reasonably drawn by implication from such grant of power. Which do you consider the better legal view? Which policy won the applause of the people?

Which policy did President Hoover follow after the collapse of the stock market in 1929 when he summoned railroad executives and business leaders from the four corners of the country (at their own expense) in an effort to stimulate construction work and thereby reduce unemployment?

24. Should a President press his policies upon Congress with all of his power and influence, or should he leave legislation wholly to Congress and merely enforce the laws which Congress passes without his co-operation?

25. Name five characteristics of a successful President.

26. The first Chinese Exclusion Act, passed in 1882, was in conflict with a treaty with China, which provided for the admission of Chinese. Was the prior treaty or the subsequent Act of Congress enforced? (See page 189, note.)

CHAPTER IX

THE DEPARTMENT OF STATE

The Secretary of State¹ ranks first among the cabinet officers. At cabinet meetings he sits at the right of the President, and on all ceremonial occasions he is given precedence over his colleagues. In case of death or removal of both the President and Vice-President the Secretary of State is the first in line for the presidency.

Some presidents intrust foreign affairs largely to the Secretary of State, while others take foreign affairs into their own hands. Secretary Hay used to tell his friends that often President McKinley did not send for him once a month on business, but that he saw President Roosevelt every day. Under Mr. Roosevelt the Secretary still conducted the negotiations, but the origination and decision of policy rested more and more with the President. President Wilson seems to have followed the Roosevelt practice while Mr. Harding very largely intrusted foreign affairs to Secretary Hughes, and Mr. Hoover follows a middle course.

The duties of the Secretary of State are partly connected with domestic affairs, but to a much greater extent with foreign affairs.

¹ The Secretary of State appoints an Under-secretary of State who is charged with the general direction of the work of the department and acts for the Secretary of State in his absence. The President appoints a first assistant, a second assistant, a third assistant, and a fourth assistant secretary of state. The Secretary of State assigns to these assistants the supervision of the various bureaus and divisions according to the character, attainment, and experience of the occupants of these offices. For example, Mr. Adee, second assistant from 1886 until his death in 1924, was consulted by the officers of the department upon matters of diplomatic procedure and general questions of international law and policy, particularly when involving the traditional practice of the Department of State.

Domestic Duties of the Secretary. — The Secretary attends to all correspondence between the President and the governors of the several States. Thus, if the President calls for a State's national guard for war, or if a governor requests the extradition¹ of a criminal who has taken refuge in a foreign country, the correspondence takes place through the Secretary of State.

When a State ratifies an amendment to the Constitution of the United States, the Secretary of State is notified; and when three fourths of the States notify him, he must certify that the amendment has been adopted. Also, when Congress admits a new State into the Union, the Secretary of State issues a proclamation declaring the fact. He is custodian of the original copies of treaties and all laws enacted by Congress.

The Secretary of State also has charge of the Great Seal of the United States, which he affixes to all executive proclamations, to various commissions, such as civil appointments made by the President, and to warrants for the extradition of fugitives from justice.

Foreign Duties of the Secretary. — The Secretary of State is at the head of the Foreign Service of the United States, which includes the diplomatic and consular services. All diplomatic and consular officials below the rank of minister are combined into a single interchangeable corps of nine classes.² These officials

¹ Extradition means the handing over by one State to another of fugitives from justice. The United States has extradition treaties with the leading nations of the world. When a person accused of crime flees from an American State to a foreign country the governor of the State applies to the Secretary of State for the return of the fugitive, furnishing evidence of probable guilt. The governor also names a person who will go for the fugitive. The proper papers are sent to our diplomatic representative, and he is instructed to request the extradition of the fugitive. The "President's Warrant" is given the agent whom the governor has designated to bring back the accused. Frequently an application is made by telegraph for the provisional arrest and detention of the fugitive in advance of the presentation of formal proof.

² An Ambassador appoints his own private secretary and may dismiss him.

are appointed after examination and a period of probation; are promoted from a lower to a higher class on merit; and finally retire with a pension to which they have contributed 5% of their salaries.

Diplomatic Service. — Diplomatic correspondence with foreign governments is carried on by the Secretary of State through



STATE AND WAR BUILDING.

diplomatic representatives. We send these representatives to the governments of nearly all independent states, and most of these governments have diplomatic representatives at Washington. We send ambassadors to the more important foreign capitals and ministers to the less important ones.¹

Ambassadors, appointed by the President with the consent of

¹ Our ministers to Abyssinia and to Liberia bear the title of *minister resident*; but the exact title for others is *envoy extraordinary* and *minister-plenipotentiary*.

When there is a vacancy in the office of ambassador or minister, or during his absence, the position is usually filled by a secretary of the embassy or legation. This officer temporarily in charge of his country's affairs is called *chargé d'affaires*.

the Senate, are sent to the capitals of fifteen countries.¹ The term of office is not prescribed by law, hence there are numerous changes whenever a new party comes into power. There are no prescribed qualifications, but the ruler to whom the ambassador is accredited may refuse to receive in a diplomatic way any



UNITED STATES EMBASSY AT BUENOS AIRES.

This building was purchased by the United States in 1930.

person who is for any reason objectionable (*persona non grata*). Any country may demand the recall of an ambassador who has made himself obnoxious to its government, and in extreme cases may dismiss him.

The duties of an ambassador are to (1) transmit official communications; (2) give information to foreigners concerning American institutions, laws, and customs; (3) keep his government advised of the progress of events in the country where he lives; (4) protect American citizens; (5) negotiate treaties

¹ These countries to which we send ambassadors are: Great Britain, Belgium, France, Spain, Italy, Germany, Poland, Turkey, Japan, Argentina, Brazil, Chile, Peru, Mexico, and Cuba.

and other agreements if requested to do so by the President; and (6) promote American interests in every way.¹

¹ The following extracts from a letter written by Walter H. Page, when he was ambassador to Great Britain, give us a close-up view of the daily routine of an ambassador:

If you think it's all play, you fool yourself; I mean this job. There's no end of the work. It consists of these parts: Receiving people for two hours every day, some on some sort of business, some merely to "pay respects"; attending to a large (and exceedingly miscellaneous) mail; going to the Foreign Office on all sorts of errands; looking up the oddest sort of information that you ever heard of; making reports to Washington on all sorts of things; then the so-called social duties — giving dinners, receptions, etc., and attending them. I hear the most important news I get at so-called social functions. Then the court functions; and the meetings and speeches! The American Ambassador must go all over England and explain every American thing. You'd never recover from the shock if you could hear me speaking about Education, Agriculture, the observance of Christmas, the Navy, the Anglo-Saxon, Mexico, the Monroe Doctrine, Co-education, Woman Suffrage, Medicine, Law, Radio-Activity, Flying, the Supreme Court, the President as a Man of Letters, the Hookworm, the Negro — just get down the Encyclopædia and continue the list!

I forgot, there are a dozen other kinds of activities, such as American marriages, which they always want the Ambassador to attend; getting them out of jail when they are jugged (I have an American woman on my hands now, whose four children come to see me every day); looking after the American insane; helping Americans move the bones of their ancestors; interpreting the income-tax law; receiving medals for Americans; hearing American fiddlers, pianists, players; sitting for American sculptors and photographers; sending telegrams for property owners in Mexico; reading letters from thousands of people who have shares in estates here; writing letters of introduction; getting tickets to the House Gallery; getting seats in the Abbey; going with people to this, that and t'other; getting tickets to the races, the art-galleries, the House of Lords; answering fool questions about the United States put by Englishmen. With a military attaché, a naval attaché, three secretaries, a private secretary, two automobiles, Alice's private secretary, a veterinarian, an immigration agent, consuls everywhere, a despatch agent, lawyers, doctors, messengers — they keep us all busy. A woman turned up dying the other day. I sent for a big doctor. She got well. As if that wasn't enough, both the woman and the doctor had to come and thank me (fifteen minutes each). Then each wrote a letter!

Then there are . . . Rhodes Scholars from Oxford . . . women who wish to go to court . . . Negroes from Liberia . . . passports, passports to sign . . . opera singers going to the United States; artists who have painted some American portraits, — don't you see?

(Life and Letters of Walter Hines Page, Vol. I, p. 159.)

To perform these duties efficiently the ambassador must be on terms of friendly intimacy with leading men in the country to which he is sent. Newspaper editors may be most useful acquaintances because the ambassador can both learn from them and impress upon them the good intentions of our government, and so reach the public through the press. The salary is \$17,500, and as the social affairs of the official set at a European capital call for heavy expenditures few ambassadors can live upon their salaries. It is said that one ambassador, in maintaining the American embassy at London, spent \$250,000 a year.

Ambassadors, and their families and servants to a great extent, are exempt from arrest and from taxation of personal belongings. Within their embassies (official residences) they may do anything not prohibited by the laws of the nation which has sent them. Of course noises, or anything which proves a nuisance outside of the embassy, are not permitted. These privileges are associated with a legal fiction known as *extraterritoriality*, which term means that the ambassador has, as it were, carried a portion of the territory of his home country with its laws to the foreign country.

Ministers are sent to the governments of all independent countries of any importance except to those to which ambassadors are sent. Everything that has been said concerning ambassadors applies to ministers except the honor or rank, salary, and the name of their residences. The salaries of ministers range from \$10,000 to \$12,000 and their official residences are called "legations."

Assistants. — At most embassies and at a few legations there is a counselor who gives technical advice in matters of international law and diplomatic practice. Every embassy and legation has one or more secretaries; and in China and Japan there are "language officers" (interpreters). Most embassies and legations have a military attaché assigned from the War Department and a commercial attaché assigned from the Depart-

ment of Commerce; and naval powers have a naval attaché assigned by the Navy Department.

Let us take a military attaché to illustrate the duties performed by a departmental attaché. He is military adviser to the ambassador or minister, he collects military information on the military situation in the country to which he is accredited, he is constantly on the alert for new ideas which can be applied to his



UNITED STATES EMBASSY AT BRUSSELS.

Wide World.

own army, and he makes confidential reports, through secret diplomatic mail bags, to the War Department where Information Digests of world conditions are kept.

A military attaché recently in China reports many additional duties. He escorted the new American Minister from the port of embarkation to the capital; he was extended the courtesy of observing a battle; he journeyed by caravan, with Chinese guards, to the uncharted Tibetan border, and reported conditions to the War Department; he made a winter trip through

the forty-below-zero Gobi Desert by auto caravan, with a few American soldiers, to rescue some American citizens reported to be in trouble; and he spent a month observing conditions in the new capital at Nanking while the legation remained at Peiping.

Consular Service. — In addition to diplomatic agents, the President, with the consent of the Senate, appoints several hundred consuls from those who have passed civil service examinations. They are commercial agents, or “America’s lookouts on the watch-towers of international trade,” and one is stationed at every important commercial city. One is sent even to the inaccessible town of Chung King, far back in the interior of China, six weeks’ travel by river from Shanghai.

Consular Duties. — Consuls perform a great variety of duties, among which the following are outstanding:

(1) Promote American trade and commerce by spying out new promised lands of commercial opportunity. They answer inquiries addressed to them by American exporters and importers, and send reports regarding foreign markets for American products to the State Department.¹ This information includes the special demands of local markets due to prevailing customs or prejudices or to unusual shortage of crops; includes changes in foreign laws bearing on commerce, such as customs regulations, patent laws, and food laws; and includes foreign methods of doing business.

(2) Enforce custom regulations. They prevent foreign shippers from undervaluing their goods to avoid tariff duties and prevent individuals from smuggling valuable goods to this country.

(3) Assist in excluding prohibited classes of immigrants. (See page 680.) Before a vessel sails, an American consul receives a list and description of immigrants on board, satisfies him-

¹ The weekly Commerce Report is published by the Bureau of Foreign and Domestic Commerce for American producers who subscribe for it. Items like the following are published in it:

No. 16363. Agency wanted for spark plugs for airplanes. Madrid.

(Names are not published because foreign competitors might use them.)

self as to its accuracy, and sends these records to the immigration inspector at the port of arrival. He also inspects the sanitary and health condition of the vessel and passengers and issues the vessel a bill of health. In 1924 consuls were first permitted to pass upon the qualifications of immigrants when visaing their passports, but subject to further checks when landing in America. In 1925 immigration attachés were stationed in the British consulates, and their examinations permit even immigrants coming third class to enter New York without passing through Ellis Island.

(4) Assist wrecked or stranded vessels and are authorized to send shipwrecked American seamen back to the United States. They may also send mutineers back to the United States for trial.

(5) Assist American citizens by protecting them in all privileges provided by treaty or conceded by usage. They visa (approve) passports, issued to aliens coming to America, and some consuls may issue passports to Americans who happen to be abroad without a passport. When permitted by a treaty, law, or usage, they settle personal estates of Americans who may die abroad without legal or other representatives.

(6) Assist Americans in legal transactions. They administer oaths, take depositions, and act as witnesses to marriages.

Consular Jurisdiction. — The consul has some jurisdiction over whatever relates to the internal economy of American vessels. He settles disputes among masters, officers, and men.

In China American consuls have jurisdiction over American citizens in both civil and criminal cases by virtue of treaty arrangements. They also hear civil cases between an American and a Chinese when the American is the defendant, and they try Americans who are accused of criminal offenses against Chinese. China is vigorously protesting against this American jurisdiction over Chinese in China; and at any time we may restore this jurisdiction to Chinese courts, as we have been obliged to do in Japan and in Turkey.

Consuls' Compensation. — While on probation consular officials are unclassified and receive from \$1500 to \$3400 a year. Subsequently, as one advances through the various classes from secretary to consul-general, the salary varies from \$3500 to \$10,000 a year. They are entitled to the immunities of diplomatic representatives, but most countries by treaty exempt them from arrest in civil cases and guarantee the protection of their archives. A consulate of the United States in a weak state is a fairly safe place in times of disturbances, and an embassy or legation is almost invariably a place of safety.

Passports. — A passport is a certificate used to identify a citizen of one country when traveling or residing in another country, in order that the citizen may enjoy all the privileges that international law, treaties, or the prestige of his native country can insure. The Division of Passport Control regulates the issuance of passports, and determines questions relating to the citizenship of Americans in foreign countries.

An American citizen who desires to travel abroad may make a written application ¹ to the Secretary of State for a passport. The application contains a detailed description of the person and information as to his age, residence, and occupation. It must be signed by the person applying, and an affidavit must be attested by a clerk of a Federal court, or of a State court if there is no Federal court within the district of the State court. It must be accompanied by a certificate from a creditable witness that the applicant is the person he professes to be, by two photographs, and by a \$5 fee (clerk's fee \$1 additional). The passport is valid for two years or less, but renewable by a consul for two periods of two years at \$2 for each renewal.

In certain cities State Department agents perform passport duties, and in emergencies procure passports without delay.

A passport for most countries must be visaed (approved) by a consul of the country to be visited, and a fee is usually charged.

¹ A blank form may be obtained from the Secretary of State or from the clerks of Federal courts, or of State courts which attest passports.

The Emergency Fund for this department, which is about \$400,000 a year, is the only fund in the administration of which no original accounts or vouchers to the Treasury Department are required. The Secretary of State gives a certificate of such expenditure. This fund enables the President and Secretary of State to meet unforeseen emergencies in the diplomatic and consular services, to enforce our neutrality laws, and to keep a watch on other countries through secret agents.

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QUESTIONS ON THE TEXT

1. Who is considered the most important cabinet officer?
2. What are the domestic duties of the Secretary of State? The foreign duties?
3. What are the duties of ambassadors and ministers? What special privileges do they enjoy?
4. What is meant by *exterritoriality*?
5. How do ambassadors differ from ministers?
6. What is a *chargé d'affaires* (pronounced shār-zhā' dāf-fār')?
7. Do military, naval, and commercial attachés act as Foreign Service Officers of the State Department? What are their duties?
8. What are consuls, and how does the consular service differ from the diplomatic service?
9. Name six important duties of consuls.
10. What is meant by consular jurisdiction?
11. What salaries are paid to ambassadors? Ministers? Consuls?
12. How is a passport obtained and what is its value?
13. What is the *emergency fund*? How does it differ from all other funds?

QUESTIONS FOR DISCUSSION

1. Explain the following simile: "The State Department may be likened to an artificial person, whose head is in Washington and whose body lies abroad."

2. In Japan the United States had consular jurisdiction until 1899, when it was abolished by treaty. Why do you suppose it was abolished?

3. A mediæval ambassador has been defined as "a person sent to lie abroad for the good of his country." Washington thus instructed John Jay, special minister to Great Britain, in 1794: "It is the President's wish that the characteristics of an American minister should be marked on the one hand by a firmness against improper compliances, and on the other hand by sincerity, candor, truth, and prudence, and by a horror of finesse and chicanery." This standard set by Washington has almost invariably been followed by the United States. Aside from moral right and wrong, which policy is the wiser, the mediæval policy of deception or the modern policy of sincerity?

4. In 1892 an attaché of the Swiss Legation at Washington was suspected of theft and arrested at Bay Shore Park, Maryland. When examined at Annapolis he was discharged. The Swiss government asked for the punishment of the officer making the arrest. The State Department requested the Governor of Maryland to investigate. The police officer was dismissed and an apology tendered by the Governor. A diplomatic officer cannot be arrested for exceeding the speed limit in an automobile, but he can be warned, and if he habitually violates the law in this respect complaint may be made to his government. Why is this courtesy to foreign countries necessary?

5. The position of American Ambassador to Great Britain with a salary of \$17,500 a year "went begging" for some months in 1913. What was the cause of this condition?

6. Should we have a United States academy for training diplomats as well as academies for training army and navy officers? Our diplomatic agents are not so well trained in foreign languages and international law as those of other countries. Is it not as important to train men to prevent war as to train men to make war?

7. Governments sometimes borrow, load their people down with debt, dissipate the money, and then vanish from the scene, leaving the succeeding administrations heavy burdens which entail excessive taxation. For this reason our State Department reviews foreign loans in advance of their consummation by American bankers. Why do bankers usually abide by the advice of the State Department?

8. Until recently ambassadors and ministers were usually recruited

from defeated statesmen who needed a position, manufacturers who had become wealthy and needed distinction, or professional men who needed foreign experiences. To-day a few ambassadors and nearly half of the ministers have been promoted from the Foreign Service. For the more important embassies would you prefer an experienced Foreign Service Officer who has spent much of his life outside of the United States or a cultured American resident who does not have to consider expenses?

9. When the 1924 Exclusion Act offended the Japanese, our ambassador to Japan did not feel that he could defend it, so he resigned. Our minister to China did defend it. He explained that the human race probably originated in Western Asia; that some people migrated as far East as possible, to the Orient; and that others through many centuries migrated west through Europe, then across the Atlantic, and then across North America to California. Because of their long separation the peoples naturally differ in customs, and therefore do not readily mix. The exclusion law does not imply the superiority of either — merely a difference.

Shortly after this defense, the minister to China was to be sent as ambassador to Japan. When secretly asked whether he would be acceptable, Japan raised objections to him. Was the United States right in appointing another as ambassador to Japan or should she have insisted upon the appointment of our first choice?

10. As late as 1930 only 18 of our 347 embassies, legations, and consulates were owned by our government. Now we are gradually buying or building residences and public buildings to house our Foreign Service, etc. We have also just begun to grant allowances for public entertainment. Do these additional expenses show a democratic or an aristocratic trend?

11. An American film corporation was robbed of a film, and it was being shown in a foreign country. Our ambassador took up the matter with the Foreign Officer of that country, and the showing of the film was immediately discontinued.

An American country sold a cargo of mixed dry goods and boots and shoes to a foreign government to the value of about \$300,000. Difficulties were encountered by the company in obtaining payment, but as a result of the continued efforts of the legation the entire debt was eventually paid.

Why can a minister or ambassador perform the above functions more successfully than a privately paid attorney?

12. It is customary for American bankers to consult the Department of State before floating a foreign loan in America. The Department

does not pass upon the merits of foreign loans as business propositions nor assume any responsibility in connection with such transactions. If the Department has no objections to the loan, it replies to the bankers in the following phraseology: "I beg to state that, in the light of the information before us, the department offers no objections to this financing." Do you think the State Department should object to a loan to the Cuban Government to put down a rebellion? To Italy for building war vessels? To a Central American revolutionary government which is likely to squander the money? To Brazil to buy and hold the coffee crop for a higher price? To a badly managed country for building a railroad which is likely to be an economic failure?

13. The Czarist government of Russia borrowed money from foreigners and built railroads. During the World War the railroads were mortgaged and many U. S. citizens bought the bonds. Having overthrown the Czarist régime, the Soviet government repudiated all Czarist debts. In 1928 the Soviet government offered for sale through American banks bonds secured by the same old railroads. The interest rate on these new bonds was to be 9 per cent. The State Department "objected" to the Soviet loan and the Chase National Bank of New York City refused to sell any more of these bonds for the Russian Government. Do you think the State Department acted wisely in thus discouraging the sale of Russian bonds on the American market? Do you suppose our State Department would have taken this action if it had recognized the Soviet Government?

CHAPTER X

THE TREASURY DEPARTMENT

The Secretary of the Treasury has a variety of functions to perform, but he is assisted by a number of directors of bureaus, services, and other divisions. To assist in the collection of Federal taxes are the Internal Revenue Service, the Customs Service, and the Secret Service. For supervising United States money, the Secretary is aided by the Mint Bureau to provide the metallic money, the Bureau of Engraving and Printing to print paper money, and the Comptroller of the Currency to supervise national banks and national bank notes.

The Bureau of the Budget is nominally in the Treasury Department, but it is not supervised by the Secretary because it is under the direct control of the President.

The Secretary has under his jurisdiction the Bureau of the Debt and the Federal Farm Loan Bureau. He also has the Bureau of Industrial Alcohol and the Bureau of Narcotics because the Secret Service of the Treasury Department which trails tax-dodgers and counterfeiters is in good training to detect the illegal use of industrial alcohol and narcotics.

The Treasury Department has had assigned to it duties which do not pertain directly to national finances. The best examples of these duties are the Public Health Service, the Coast Guard Service, and the office of Supervising Architect which directs the purchase of sites and the construction of government buildings.

The Collection of the Revenue. — Previous to the World War the total annual receipts of the United States Government were scarcely a billion dollars; but primarily because of interest and principal on the war debt, an increased army and navy, and compensation to veterans, it is now necessary to raise about four times that amount.

RECEIPTS OF THE UNITED STATES GOVERNMENT FOR THE FISCAL YEARS 1930 AND 1931

	1930	1931
Income tax (from individuals and corporations)	\$2,410,986,978	\$1,860,394,295
Other internal revenue		
Cigarettes (\$361,205,260), cigars, tobacco, and snuff		
Documentary stamps on bonds of indebtedness, capital stock issues, sales, etc.		
Estate (inheritance) tax	\$450,339,060	
Club dues (\$12,521,092), admissions ¹ (\$4,230,668)		
Playing cards	69,309,502	
Oleomargarine	64,769,625	
Miscellaneous	16,751,760	
Customs ("tariff")	4,819,293	
Principal and interest on government-owned foreign securities	2,919,388	
Trust fund receipts (<i>e.g.</i> , premiums on veterans' insurance, deductions from salaries of government employees for civil service retirement, etc.)	19,399,408	
Panama Canal tolls, etc.	628,308,036	569,386,721
Miscellaneous (<i>e.g.</i> , District of Columbia taxes; income from mineral, oil, and forest leases; patent, passport, and consular fees; and payments for re-claimed lands)	587,000,903	378,354,005
Total ordinary receipts	239,565,807	236,062,756
Postal receipts	46,397,682	61,159,058
	28,253,128	26,624,253
	<u>237,429,168</u>	<u>185,252,406</u>
	\$4,177,941,702	\$3,317,233,494
	705,484,098	

¹ There is a tax of 10% on membership dues paid to social, athletic, or sporting clubs if the dues are in excess of \$25 per year. The tax does not apply to lodges or fraternities. The tax on admissions to amusements applies only to tickets selling for more than \$3.

The Income Tax constitutes more than half of our total Federal revenue; yet less than 3% of our population pay any individual Federal income tax, and some 380,000 individuals pay about 97% of the total individual income tax. Some additional persons who own stock in corporations indirectly pay a portion of the income tax collected from corporations.



UNITED STATES TREASURY BUILDING.

To care for the increasing business of the U. S. Treasury an enormous internal revenue building has been erected between Pennsylvania Avenue and the Mall. It is much larger than this original Treasury Building.

The government has various methods of checking upon the honesty of those who should pay income taxes. It requires the keeping of a record of business on which income is earned; it requires employers of large numbers to report the salaries paid; it requires those paying royalties on patents and copyrights to report the sums of money paid; it exchanges information with State income tax collectors; it compels witnesses to testify; and it employs secret service agents.

Those who fail to report all of their taxable income may be

imprisoned, may be fined, and may have a penalty added equal to 50% of the amount not reported. For example, in 1930 it was discovered that a movie star had short changed the government \$118,364 during a period of three years. He was fined \$3000 and penalized 50% of the \$118,364. Thus he had to pay a total of \$180,546. In 1931 "Scarface Al" Capone was indicted for evading an income tax on a million dollars secured over a period of six years. He was given an eleven-year prison sentence, fined \$50,000, and his property seized for the taxes and penalty.

Information often comes through competitors or rivals. For instance, a shoe merchant informs the collector that a rival merchant did not report all of his business. In another interesting case a man told the woman to whom he was engaged how cleverly he had defrauded the government. After some years he jilted this woman. She then reported him for spite. So years after he thought he had "got by" he had to pay the price of dishonesty. (See page 123 for income tax rates.)

Other Internal Revenue is derived from the sources indicated on page 220, *e.g.*, on the manufacture of tobacco, cigarettes, and playing cards. The commissioner of internal revenue and his deputies collect these taxes through collectors of internal revenue in charge of the various districts into which the country is divided. So far as feasible, these taxes are collected by means of stamps which are pasted upon packages in such a way that the stamp will be broken when the package is opened.

There are enough dishonest taxpayers to necessitate an extensive secret service department, because even great manufacturers have been guilty of counterfeiting revenue stamps.

Customs are taxes (tariff) on imported goods. These taxes are collected by the Secretary of the Treasury through the Bureau of Customs. The country is divided into forty-eight customs districts. In each one of these districts there is a collector who is assisted by a surveyor, appraiser, examiners, inspectors, storekeepers, and clerks.

All articles brought into the country must enter at specified points where there are custom-houses. At the principal point in each district the collector resides; at subordinate places a deputy collector. Along the two oceans and the Canadian and Mexican borders are numerous "ports of entry"; and numerous interior cities, such as Chicago and St. Louis, are "ports of entry."¹

Customs on about 2000 taxable articles are of three kinds — *specific*, *ad valorem*, and *mixed*. *Specific* means so much per unit, as five cents a gallon on cider or four cents each on baby chicks. *Ad valorem* means in "proportion to value," as ten per cent of the value of cut diamonds or ninety per cent of the value of laces. *Mixed* means that both a *specific* duty and an *ad valorem* duty are imposed upon the same article.



Ewing Galloway.

A CUSTOMS EXAMINER, NEW YORK.

The examiner is searching baggage for dutiable goods.

As the determination of values is very difficult, persons exporting to the United States articles valued at over \$100 are required to have invoices certified by an American consul; when valued at \$100 or less an oral statement is accepted. If the consul is not certain of the value he may demand three samples, one for himself, one for the court of customs in New York, and one for the appraiser at the port to which the merchandise is sent.

¹ More than half of all custom dues are collected at New York.

To prevent fraud when merchandise is received at a port, ten per cent of the packages, taken at random, are opened and examined; and all personal baggage is examined. To prevent smuggling, detectives are at work here and abroad and the Treasury Department maintains a Coast Guard.

Any person, except an officer of the United States, who gives original information which leads to the conviction of a smuggler may be awarded 25% of the net duty, fine, or forfeiture incurred.

The Safe-Keeping of the Revenues. — *The Treasurer* of the United States may keep the revenues in the Treasury at Washington, in the Federal Reserve banks, in the Federal land banks, or in National Banks or State Banks of the federal reserve system designated by the Secretary of the Treasury.

The Disbursement of the Revenue is regulated by Acts of Congress. No money is paid out of the Treasury unless authorized by an Act of Congress. The money is paid by the *Treasurer* upon the presentation of a warrant drawn by the Secretary of the Treasury and approved by the Comptroller General.

The General Accounting Office, created in 1921, is independent of the Treasury Department and is organized to safeguard our revenues even against mistakes or frauds of treasury officials. It is under the direction of the Comptroller General of the United States, who is appointed by the President, with the consent of the Senate, for a term of fifteen years on a salary of \$10,000 a year. The Act creating the office provides that he shall not be removed from office except by a joint resolution of Congress.¹

This Office examines and audits the claims and accounts of most branches of the government; and the Comptroller General prescribes the form and method of keeping accounts and passes upon the question of what are legal disbursements.

Upon the application of any disbursing officer the Comptroller

¹ There is a question as to the constitutionality of this provision. The case of *Myers v. U. S.* (see page 188, note) seems to give the President power to dismiss all presidential appointees except judges.

EXPENDITURES OF THE UNITED STATES GOVERNMENT FOR THE
FISCAL YEAR 1931

Veterans' Administration (Veterans' Bureau, Pension Bureau, and Bureau of National Homes)	\$729,199,248
Interest on the public debt (World War debt) . . .	611,559,704
War Department (including \$121,286,815 for river and harbor improvements)	478,418,974
Public debt retirements paid from ordinary receipts .	440,082,000
Navy (including the Marine Corps)	354,071,004
Agriculture (including Federal-aid highways) . . .	296,865,945
Loans on certain World War veterans' insurance . .	224,216,286
Treasury Department (including buildings, coast guard, and health)	204,569,134
Agricultural marketing fund	190,540,855
Post Office deficiency	145,643,613
Refund of customs, income taxes, etc., erroneously paid	91,256,936
Interior Department (including irrigation)	71,500,359
Commerce (including lighthouses)	61,477,117
District of Columbia	47,798,066
Department of Justice (including courts and penal institutions)	44,333,498
Legislative establishment	23,978,413
Civil Service retirement fund	20,304,248
Department of State (including foreign intercourse) .	15,687,716
Labor Department (including immigration)	12,181,886
Miscellaneous	156,265,337
Total expenditures from ordinary receipts	\$4,219,950,339
Postal expenditures from postal receipts, exclusive of appropriation for deficiency (1930)	705,484,098

General is required to render his advance decision upon any question involving a payment to be made by this disbursing officer. For example, the Postmaster General found that a British line offered a better schedule and a lower price for mail between the United States and the Panama Canal Zone. But there is a United States law requiring coastwise mail to be carried in American vessels, and the Postmaster General did not know whether or not mail carried between the States and the Canal Zone is "coastwise mail." If it were coastwise mail, the Comptroller General could not pay the British line. Therefore the

Comptroller General was asked for an opinion, and he decided that it is not coastwise mail.

The General Accounting Office superintends the recovery of debts owed to the United States. For example, a military officer received an extra allowance because he claimed to have a dependent mother. When it was discovered that his mother was worth \$42,500 the Accounting Office took the proper steps to recover the excess payment.

United States Debt. — The total debt of the United States government before the World War was about one billion dollars. Because of the War the debt mounted to its maximum of \$26,596,000,000 in August, 1919; but it was gradually reduced and was only about \$16,000,000,000 by the end of 1930. However, reduced revenues and increased expenditures caused it to mount to more than \$17,000,000,000 by the end of 1931. The eleven billions owed us by our war allies may help pay it.¹ (See page 706.)

Currency. — Currency, that is, money authorized by the government, is of two kinds — metallic and paper.

¹ Debts owed the United States by foreign governments June 30, 1931:

Armenia	\$ 11,959,918
Austria	23,752,217
Belgium	400,680,000
Czechoslovakia	167,071,023
Estonia	16,466,013
Finland	8,604,000
France	3,863,650,000
Great Britain	4,398,000,000
Greece	31,516,000
Hungary	1,908,560
Italy	2,004,900,000
Latvia	6,888,664
Lithuania	6,197,682
Nicaragua	290,628
Poland	206,057,000
Rumania	63,860,560
Russia	192,601,297
Yugoslavia	61,625,000
Total	<u>\$11,466,028,562</u>

Metallic Currency. — Gold, silver, nickel, and bronze coins are stamped at the mints in Philadelphia, Denver, and San Francisco.¹ At present these mints issue the double eagle (\$20), eagle (\$10), and the half eagle (\$5), in gold.² Gold is coined free for any person bringing the metal to the mints; but as ten per cent of the coin must be alloy (copper, or nine parts copper and one part silver) to make it durable, there is a small charge for the alloy. If one desires to store the gold in bank vaults or to export it, the mint will mold it into bars containing the government stamp to indicate its fineness and weight.

The United States Treasury will not receive gold coins which have been reduced in weight more than half of one per cent, and then only in case they have been in circulation twenty years. If in circulation a shorter period the abrasion must be only in proportion. As the government makes no profit in coining gold it will not bear the cost of wear. When banks receive any quantity of gold coins they weigh them, and the last party that accepts a light weight gold coin is the loser.

The mints now issue the dollar, half dollar, quarter, and dime in silver. Silver is purchased at its market value by the superintendent of the mint under the supervision of the Director of the Mint. A silver dollar weighs 412.5 grains, of which one tenth is alloy (copper), and as the cost of an ounce (480 grains) of silver in bullion was 28 cents in August, 1931, the cost of the silver in a dollar was 22 cents.³ The treasurer, assistant treasurers, and depositories of the United States will redeem half dollars, quarters, and dimes in lawful money if they are not mutilated. Smooth coins are re-coined at the expense of the government.

¹ At the head of the Bureau of the Mint is a Director of the Mint. Subordinate to him is a superintendent for each mint.

² The quarter eagle (\$2.50) was discontinued in 1920, then again issued, but finally discontinued in 1931 because people refused to use it except for Christmas gifts.

³ The cost of silver changes like that of other commodities. On April 9, 1920, an ounce of silver cost \$1.20.

The five-cent piece is made of three parts copper and one part nickel, and the cent is made of bronze (95 per cent copper and 5 per cent tin or zinc). Metal for these coins is purchased from the lowest bidder by the superintendent of the mint, with the approval of the Director of the Mint. The profit on these coins is even greater than that on silver coins. The Treasurer, assistant treasurers, and depositories of the United States will redeem these minor coins in lawful money provided they are not mutilated. Coins worn smooth are re-coined at the expense of the government.

Money which the law requires a creditor to accept in payment of a debt (unless otherwise agreed) when tendered by a debtor is known as *legal tender*. United States notes, called greenbacks, are legal tender except for duties on imports and interest on the public debt; and gold dollars, gold certificates, and silver dollars are legal tender in any amount for the payment of public and private debts. Half dollars, quarters, and dimes, known as *subsidiary coins*, are legal tender to the amount of ten dollars. Nickels and pennies, known as *minor coins*, are legal tender to the amount of twenty-five cents.

The Gold Standard Act of 1900 provides that the value of all United States money shall be kept on a parity with gold.

Paper Currency consists of gold certificates, silver certificates,¹ United States notes ("greenbacks"), national bank notes,² and federal reserve notes.

¹ There are still in circulation a few of the *Sherman treasury notes of 1890*. They were issued in payment of silver bullion purchased by the United States under the Sherman Act of 1890, and are secured dollar for dollar by silver dollars held in the Treasury. They are redeemable in gold upon demand, and they are canceled and retired when presented; therefore there are only about one million dollars' worth of these notes remaining in circulation.

² A few *federal reserve bank notes* are in circulation. They are issued by the federal reserve banks on the principle of the national bank notes — secured by the deposit of approved government securities. They were issued in quantity during the World War to take the place of silver certificates which were temporarily withdrawn from circulation so the govern-

Gold Certificates are receipts given any person who deposits gold coin or bars of gold with the Treasurer of the United States. The gold is kept in government vaults until certificates are presented for its return. The certificates are more convenient to handle than coin. They might be compared to warehouse receipts.



Underwood and Underwood.

EXAMINING SMALL-SIZE CURRENCY AT THE BUREAU OF ENGRAVING
AND PRINTING AT WASHINGTON.

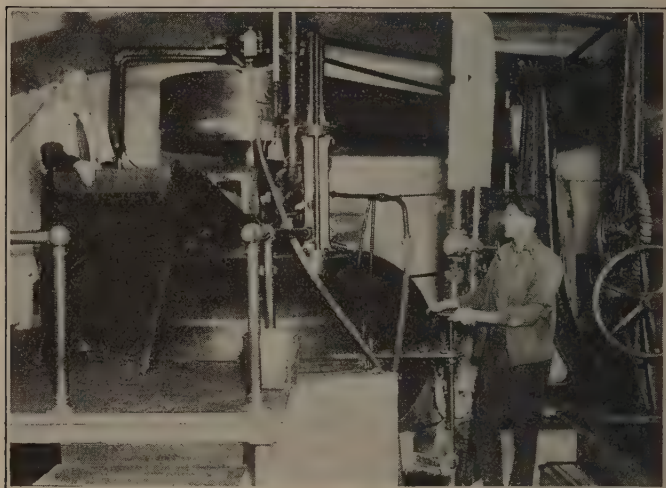
Silver Certificates are receipts given for the deposit of silver, just as gold certificates are given for the deposit of gold.

United States Notes, called "greenbacks" because the reverse side was printed in green, were issued during the Civil War with nothing to secure them except the promise of the United States government to pay. Therefore, in 1864, when Maryland was invaded by General Lee's army and the security of the govern-

ment might supply the Orient with silver held as security for silver certificates. Federal reserve banks usually retire the federal reserve bank notes as they are redeemed; therefore only between two and three million dollars in these notes are still in circulation.

ment was threatened, these greenbacks were worth only thirty-nine cents on the dollar of gold.

As we now have the gold standard they can be presented to the Treasurer of the United States and exchanged for gold. They are then reissued and kept in circulation. To guarantee their redemption a reserve of about \$150,000,000 in gold coin or bullion is held in the Treasury.



International Newsreel.

THE MACERATOR OF THE UNITED STATES TREASURY.

This machine grinds to pulp old bills that have been redeemed and withdrawn from circulation.

National Bank Notes are issued by National Banks under the direction and control of the Comptroller of the Currency. They may be issued in amounts equal to the par value of certain United States bonds. The National Bank deposits these bonds with the Comptroller of the Currency as security. The banks then draw interest on these bonds and also circulate the national bank notes as money. Anybody may redeem them in gold by presenting them to the Treasurer of the United States; and for

this purpose each bank is required to keep on deposit with the Treasurer an amount of gold equal to five per cent of the amount of notes the bank has in circulation.

Three pre-World War bond issues, which bear 2 per cent interest, are the only outstanding bonds of the United States bearing this circulation privilege. As the United States has the privilege of paying off these bonds, the Secretary of the Treasury may terminate the circulation of national bank notes at any time he thinks advisable.

KINDS OF PAPER MONEY

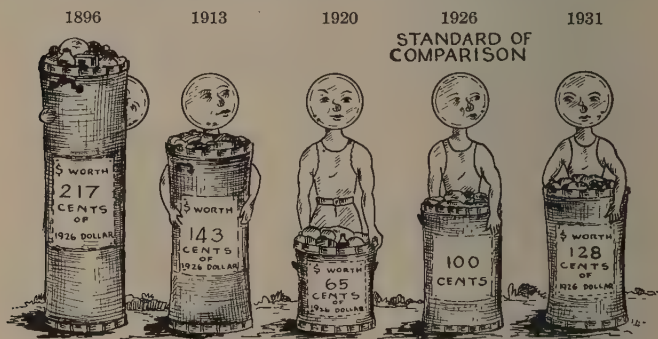
NAME OF CURRENCY	ISSUED BY	SECURED BY	AMOUNT IN CIRCULATION JUNE 30, 1931
Gold Certificates	U. S. Government	Gold deposited in U. S. Treasury	\$996,509,548
Silver Certificates	U. S. Government	Silver deposited in U. S. Treasury	377,148,924
U. S. Notes "Greenbacks"	U. S. Government	About \$150,000,000 gold reserve plus promise of the U. S. to pay	299,427,291
National Bank Notes	National Banks	U. S. bonds deposited in U. S. Treasury	648,363,353
Federal Reserve Notes	Federal Reserve Banks	Commercial "paper" discounted for member banks plus 40% gold reserve	1,708,428,782

Federal Reserve Notes which are prepared by the Comptroller of the Currency under the authority of the Federal Reserve Board, may be issued by the twelve Federal Reserve banks. The purpose of these notes is to give elasticity to our currency, *i.e.*, to allow the government to increase the volume of money when money becomes scarce, and thereby prevent a money panic. (See page 307.)

These notes may be issued upon the security of short term commercial paper (*e.g.*, private notes, drafts, etc.), and the only limit which the law places upon the amount of Federal Reserve

notes which may be issued is that arising from the requirement for collateral and reserve, and the provision that interest may be charged upon them at rates determined by the Federal Reserve Board. Federal Reserve notes are receivable for taxes, customs, and other public dues and are redeemable in gold on demand at the Treasury Department in Washington, or in gold or lawful money at any Federal Reserve bank. The gold reserve required against Federal Reserve notes is 40 per cent.

Mutilated paper currency may be redeemed if its condition permits its identification by the government experts.¹



THE VALUE OF THE GOLD DOLLAR IN GOODS AT WHOLESALE.

The Gold Standard. — The United States formally adopted the gold standard by the Act of March 4, 1900, but had actually been on a gold standing since 1879. The Act provides, "That the dollar consisting of twenty-five and eight tenths grains of gold nine tenths fine . . . shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard and the duty of the Secretary of the Treasury to maintain it shall be such parity."

¹ The average life of paper money in the United States is less than three years; the average life of silver certificates, the paper money in most common use, is only about one year. When the old is exchanged for the new the old is ground into pulp.

In the foregoing sections the reader must have observed that one can exchange gold certificates, United States notes, Federal Reserve notes, and National bank notes for gold coins. This paper money which can be exchanged directly for gold, plus actual gold coins, forms four fifths of all our money. The other fifth, composed of silver coins, silver certificates, nickels, and pennies, can easily be exchanged for the above-mentioned forms of money; hence all of our money can be converted either directly or indirectly into gold coin. Any United States dollar is worth 23.22 grains of pure gold.

Costs of Living. — Prices are based upon supply and demand. During the World War gold flowed to the United States and the issue of our new federal reserve notes increased our volume of money. While the quantity of money increased, the supply of commodities decreased because 5,000,000 men in the army ceased producing supplies; therefore prices rose to their peak in 1920. After 1920 the per capita volume of money declined, the supply of commodities increased, and prices fell.

COMPARATIVE WHOLESALE PRICES IN THE UNITED STATES
(1926 = 100)

KINDS OF COMMODITIES	1896	1913	1920	1926	U. S. FISCAL YEAR 1931
Farm Products	39	72	151	100	75
Foods	43	64	137	100	81
Hides and Leather Products .	—	68	171	100	91
Textile Products	43	57	165	100	71
Fuel and Lighting	42	61	164	100	69
Metals and Metal Products .	73	91	149	100	90
Building Materials	36	57	150	100	83
Chemicals and Drugs	73	80	165	100	83
House Furnishing Goods . .	32	56	142	100	92
Miscellaneous	74	93	167	100	66
All Commodities	46	70	154	100	78

The Coast Guard. — In 1915 Congress combined the Revenue Cutter Service and the Life Saving Service and thus created the

Coast Guard. It now consists of approximately 11,000 officers and privates. In times of peace it operates under the Treasury Department, but in time of war the President makes it a branch of the navy and it receives orders from the Secretary of the Navy or the President.



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COAST GUARD BEACH PATROL MAKING HIS EARLY MORNING
ROUNDS.

The Coast Guard has a variety of duties. It operates life-saving stations, assists vessels in distress, suppresses mutinies on merchant vessels, patrols the North Atlantic to warn ships against icebergs, removes wrecks and other floating dangers to navigation, escorts the school of seals when it annually migrates to the Alaskan islands, protects game and fisheries in Alaska, extends medical aid to American vessels engaged in deep-sea fisheries, enforces quarantine laws and neutrality laws, and enforces navigation and other laws governing merchant vessels and motor boats such as requiring adequate life preservers.

The Coast Guard also patrols the coasts to prevent piracy and the smuggling of dutiable goods, narcotics, liquors, and undesirable persons.

Cruisers, destroyers, patrol vessels, picket boats, lifeboats, seaplanes, and other miscellaneous craft constitute the equipment of Coast Guardsmen, and the Coast Guard Academy at New London, Connecticut, trains them for their duties.



COAST GUARDSMEN PREPARING TO MAKE A RESCUE AT SEA.

The Public Health Service happens to be in the Treasury Department because shortly after the Federal Government was established the Treasury Department collected a tax of 20 cents a month from each sailor who manned the merchantmen of the new Republic to maintain a Marine Hospital Service. This service gradually expanded into the present Bureau of Public Health Service.

This bureau now regulates the sale of viruses, serums, and toxins; gives a physical examination to immigrants, sends health agents abroad to prevent the transmission of contagious and infectious diseases to the United States; enforces interstate

quarantine regulations ; safeguards the water used on interstate trains and on ships ; and coöperates with State and local health agencies.

This bureau studies the causes of diseases and methods of preventing them. It also supervises the treatment of persons confined to the narcotic farms recently established by the Federal government through the Department of Justice.

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QUESTIONS ON THE TEXT

1. What are the duties of the Secretary of the Treasury?
2. How much revenue does the United States government receive annually? From what sources does this money come?
3. What is meant by *internal revenue*?
4. What is meant by *customs*?
5. What is the difference between *specific* and *ad valorem* tariff?
6. How does the United States prevent fraud by importers of articles upon which a tariff is imposed?
7. Where does the United States government keep its money?
8. For what purposes does the United States expend its money?
9. What body must authorize the expenditure of all government money?
10. What officer sees that no money is expended except such as is authorized by Congress? What is his relationship to the Secretary of the Treasury? To the President? To Congress? For what term is he chosen?
11. How much debt has the United States? How much is owed to the United States?

12. What is meant by *currency*?
13. What metallic currency does the United States now make? Where is it made?
14. On what kinds of metallic money is a profit made?
15. What is meant by *legal tender* money? *Subsidiary* coins? *Minor* coins?
16. What kinds of coins are *legal tender* money?
17. Where is paper currency printed?
18. What are gold certificates? Silver certificates?
19. How much gold does the Treasury keep in reserve and why?
20. What are Federal Reserve notes? How many may be issued? How may the Reserve Board prevent the issuance of too many? How are these notes secured?
21. If you have mutilated paper money that can be recognized, how would you exchange it for good money?
22. In 1900 the United States adopted the gold standard. What is meant by the *gold standard*?
23. How do prices to-day compare with prices in 1896? 1913? 1920? 1926?
24. How do you explain the recent changes in prices?
25. Why is the Coast Guard in the Treasury Department? What services does it perform?
26. Why is the Public Health Service in the Treasury Department? What services does it perform?

QUESTIONS FOR DISCUSSION

1. The Secretary of the Treasury is required to make his annual report to Congress. The other department heads make theirs to the President. Why this difference?
2. Why do we levy higher rates on income from stocks and bonds than from salaries and professional services? If these rates were made too high, what effect would they have upon promoters of new corporations? Upon business concerns needing to borrow money? Upon widows inheriting stocks and bonds?
3. Some people would get all revenue from the rich (property, income, and inheritance taxes); others would get all from those who indulge in luxuries or evils (amusements, lotteries, tobaccos, liquors); while still others would shift taxes to the masses by taxing everything sold for consumption (tariff; severance tax on coal, oils, metals, and lumber; sales tax on gasoline or on everything). Which of these types of taxes, if used alone, would kill capital — the “goose that lays the golden egg”?

Which would make it more difficult to get rid of evils? Which would be least in proportion to ability to pay?

4. Originally, in 1792, both gold dollars and silver dollars were made the units of value, but in time silver ceased to be recognized as a unit of value. This gave offense to the agricultural sections of the country which felt that the lack of gold made money scarce and that this scarcity of money resulted in low prices for farm products. Their proposed remedy for agricultural depression was to coin into dollars all the silver that would be offered at the mint. This movement for free coinage of silver on the basis of 16 pounds of silver being equal to one pound of gold was the issue fought out in the presidential election of 1896 when William Jennings Bryan championed the cause of silver. What effect would the free coinage of silver at the ratio of 16 to 1 have upon a farmer with a \$10,000 mortgage on his farm? On the widow who has \$10,000 in bonds? On the merchant who buys French gowns or German potash?

5. If a man is saving money during a period when prices are rising, should he buy a farm or other property which will yield him 6 per cent net interest upon the amount invested, or should he lend it on a good security at 6 per cent?

6. Buying stocks is buying shares in actual property. Buying bonds is lending money. Which would you buy when prices are rising?

7. In 1896 President Cleveland received a salary of \$50,000. Now President Hoover receives a salary of \$75,000. Can Hoover buy any more commodities with his salary than Cleveland could with his?

8. Previous to 1896, when prices were falling, a very large number of people were without work and marched with Coxey's Army to Washington to petition the government to provide work, but as soon as prices began to rise labor was in great demand. Explain the reason for these conditions.

9. Since 1913 the volume of money in the United States has increased by several billion dollars. What effect would you expect this increase to have upon prices? During this same period the inventions of machinery and other scientific methods of production have produced an oversupply of commodities. What effect would you expect this oversupply to have upon prices?

10. If some chemist should discover a cheap means of extracting gold from sea water and, as a result, gold should become extremely cheap, what effect would it have upon the wealth of a person who has all his money in United States notes? In State bonds? In land or houses?

11. Jose Esparza of Mexico claimed to produce silver by mixing a small quantity of gold with a great quantity of lead. For fear some one

would kill him in order to destroy the secret process he claimed to discover, he wrote his formula in sealed envelopes deposited with five notary publics, with directions to deliver them to the Mexican Government in the event of his death. What interests would have had an incentive to destroy his formula if he had discovered what he claimed to have?

12. So long as the National government is financially sound why does it not make any material difference whether certain kinds of paper money are or are not legal tender?

13. During the Civil War the United States paper money was worth much less than gold money. Why? Confederate paper money was worth even less than United States paper money; and at the end of the war Confederate paper money had no value. Why?

14. Bring to class as many kinds of paper money as possible and examine the various kinds carefully. If you should happen to burn your paper money beyond recognition who would gain thereby? If a mouse should gnaw holes in it, could you exchange it for new money?

15. John F. Sinclair relates the following story:

"Dr. Adolph Helfer is one of the great physicians of Vienna. He was born in America. His family lived in St. Louis. In 1912 his father died and left him \$50,000, which was sent to him in Vienna. He was a careful, prudent man. He deposited the \$50,000 in a savings bank in Vienna and received 3 per cent interest annually. I met Dr. Helfer in Vienna a few weeks ago. He had not taken a dollar, either principal or interest, from the original fund. He was hoping for an old age free from worry. (But Austria issued quantities of paper money without gold or silver to secure it.) Then we figured up what his \$50,000 was worth in the summer of 1923. It came to exactly \$3.15. The money had quickly slipped away — disappeared — and Dr. Helfer found himself holding an empty sack. That is what inflation does." Explain *inflation*.

16. The United States borrowed billions of dollars during the World War when prices were high. If our Federal Reserve Board should suddenly withdraw large amounts of money from circulation, would it benefit those who hold the government bonds or the taxpayers who have these bonds to pay off?

17. If one defrauds the government by not honestly paying his taxes, is he stealing from an invisible government or from his honest taxpaying neighbors?

18. In 1917 the total Federal subsidies paid to the States amounted to less than \$16,000,000. In 1930 the following subsidies to the States amounted to over \$135,000,000:

Aid for highway construction	\$75,880,863
State Militia ("National Guards")	32,619,798
Education in the wage-earning occupations	7,682,323
Coöperative agricultural extension work between the Department of Agriculture and the land-grant colleges for instruction and practical demonstration in agriculture and home economics to persons not attending college	8,732,717
Portion of royalty from U. S. lands leased for producing oil going to States in which lands are located.	1,388,931
Support of agricultural colleges ("land-grant colleges")	2,400,000
Support of agricultural experiment stations in connection with land-grant colleges	4,320,000
Rehabilitation of civilians disabled in industry	936,527
Forest fire prevention	1,252,445
Distribution of nursery stock for reforestation	78,763
Forest extension work	51,688
Portion of proceeds from sale of public lands going to States in which lands are located	30,451
Total	<u>\$135,373,607</u>

To obtain the above subsidies, the States must match Federal appropriations and agree to certain supervision by Federal officers. Rich populous States pay to the Federal government more than they get back. Is this proper? Explain how they may get it back indirectly. Do people from rich centers use the roads beyond their bounds for touring, for trucking food to the city, for sending their products to purchasers? Have they any interest in the National Guards of other States? Will children educated in poor rural sections ever migrate to the cities? Will the rich cities or poor country districts profit more if Federal aid results in lower prices for farm products? Is money collected in taxes from the rich States and spent in all the States charity or good business?

19. It is unconstitutional for the United States to tax State, county, or municipal bonds, or the income from them; and in practice, States do not tax their own State or local government bonds. In 1932 there were more than \$15,000,000,000 invested in such wholly tax exempt securities. Would you favor a constitutional amendment permitting the United States to impose the income tax upon the income from State bonds? What effect would this have upon the rate of interest the States and local governments would have to pay?

CHAPTER XI

WAR, NAVY, JUSTICE, AND POST OFFICE DEPARTMENTS

WAR DEPARTMENT

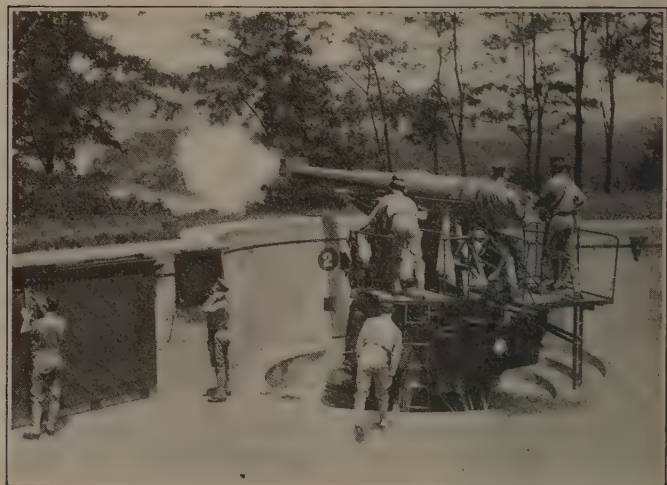
The Secretary of War directs the army, including the Army War College, West Point,¹ and service schools. He also has charge of fortifications, river and harbor improvements, bridges over navigable streams, and the administration of the Philippine Islands and Porto Rico. All estimates of appropriations for these functions of the department must be examined by him and referred to the President and to Congress. The War Department is especially subject to the President because the Constitution makes him commander-in-chief of the army.

¹ For the United States Military Academy at West Point the President appoints 122 cadets from the United States at large (including 2 recommended by the Vice-President and 20 Honor Graduates from Honor Military Schools, recommended by the Heads of such schools), 4 from each State at large (recommended by Senators), 2 from each Congressional District (recommended by representatives), 4 each from the District of Columbia and the Philippines, and 2 each from Hawaii, Alaska, and Porto Rico (recommended by local officials), and not exceeding 180 enlisted men of the Regular Army and National Guard (recommended by Commanding Generals and State Governors respectively). Appointees must be between 17 and 22 years of age, except those from the Regular Army and National Guard, who must be between 19 and 22. All must pass a physical examination and a mental examination equivalent to a college entrance examination or submit satisfactory college or secondary school certificates. A validating examination is required in connection with secondary school certificates. The pay of a cadet is \$780 per year and commutation of rations at \$.80 per day, or a total of \$1072 per year during the four years of attendance. Upon graduation a cadet is commissioned as a Second Lieutenant in the Regular Army.



P. & A.

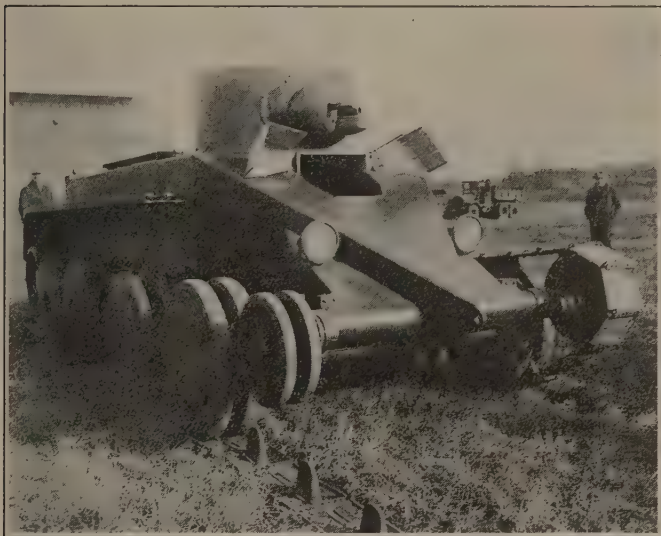
WEST POINTERS GO FOR A RIDE AT ABERDEEN PROVING GROUNDS.



Underwood and Underwood.

COAST DEFENSE DRILL BY WEST POINT CADETS.

Military Administration is distributed as follows: The *adjutant-general* transmits to the troops and individuals the orders that go out from the central administration, and keeps records and statistics of the army. The *inspector-general* supervises the inspection of all branches of the army. The *quartermaster-gen-*



International.

THE NEW CHRISTIE SUPER TANK PUTTING ON CATERPILLAR TRACTS. Thirty miles an hour over plowed fields with caterpillar tracts; and 60 miles an hour on good road without the tracts.

eral has charge of transportation, buildings, subsistence, and other supplies. The *surgeon-general* supervises the medical department. The *chief of finance* has charge of the financial affairs of the army, including the payment of soldiers and employees of the department. The *chief of engineers* supervises the engineer troops of the army and looks after the construction and maintenance of forts, military roads, bridges, and river and harbor improvements. The *chief of ordnance* provides and distributes

the implements of war. The *chief of the chemical warfare service* experiments with and supplies smoke and incendiary materials, toxic gases, and gas defense appliances. The *judge-advocate-general* records the proceedings of courts-martial, and is legal adviser to the Secretary of War.



U. S. Army Ordnance Department.

ANTI-AIRCRAFT GUN.

The General Staff. — During the Spanish-American War (1898) President McKinley, the Secretary of War, and the Secretary of the Navy sat in the War Room at the White House and sent out general instructions to the army and navy, leaving the details to the commanding officers. It was seen that these civil administrators lacked practical experience for this duty and, in 1903, a supervising military bureau of the War Department, known as the General Staff, was created.

The General Staff consists of the Chief of Staff, four assistants, and more than a hundred other officers of grades not below that of captain. It prepares plans for national defense, investigates the efficiency of the army, and advises the Secretary of War. Plans or recommendations are transmitted through the Chief of Staff, and, if approved, the Chief carries them into effect. The

members of the staff do not serve for more than four consecutive years, and thus the body is kept in constant touch with the practical problems of warfare.

The War Council and War College. — *The War Council*, consisting of the Secretary of War, the Assistant-Secretary, the General of the Army, and the Chief of Staff meet from time to time to advise the Secretary concerning military and munitions problems.



ARMY WAR COLLEGE, WASHINGTON, D. C.

The Army War College functions under the Chief of Staff. It is a school where not exceeding one hundred especially fitted officers study military strategy and the handling of large units.

The Army. — The army of the United States consists of the regular army, the organized reserve, and the National Guard while in the service of the United States.

The regular army consists of the infantry, the cavalry, the field artillery, the coast artillery corps, the air service, the corps of engineers, and the signal corps, which seven branches are known as the "line" of the army.

According to the law of 1922 the regular army is composed of not exceeding 125,000 enlisted men. Original enlistments are for a period of either one or three years, but reënlistments are for three years.¹

Reserve Officers are commissioned by the President for a period of five years, but an appointment in force at the outbreak



Official Photograph, U. S. Army Air Corps.

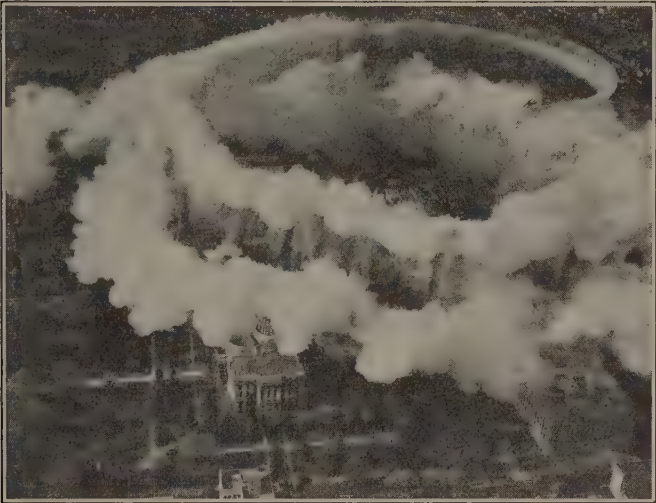
BOMBARDMENT PLANES OVER NEW YORK CITY.

of war, or made in time of war, continues in force until six months after war has ended. *Enlisted Reserves* enlist for three years, except World War veterans who may enlist for one year. Neither Reserve Officers nor Enlisted Reserves may be summoned for active duty for more than fifteen days a year without their consent, unless Congress declares an emergency to exist.

National Guard original enlistments are for a period of three years and subsequent ones for a period of one year. *National*

¹ No person under eighteen years of age may enlist; and no person under twenty-one without the consent of his parents or guardian.

Guard Reserves may enlist for one or three years. During peace the National Guard of any State is subject to the governor, and is commonly called the "organized militia."¹ In time of war it can be ordered anywhere the President needs it. It receives its equipment from the National government, and since 1916



Official Photograph, U. S. Army Air Corps.

LAYING A SMOKE SCREEN OVER THE CALIFORNIA STATE CAPITOL.

the guardsmen have received a small regular salary from the National government.

Congress may authorize the President to call for volunteers, or to draft citizens as was done during the World War.

In times of peace the army is often used at the discretion of the President for various purposes. For instance, it has frequently been used to hold the Indians in subjection. In 1894, when the strikers of the Pullman Car Company interfered with

¹ The unorganized militia includes all male citizens between 18 and 45 years of age.

trains carrying mail near Chicago, President Cleveland sent United States troops to prevent any delay of the mails. At the time of the San Francisco earthquake United States troops were used to guard the property, and in 1915 troops were used in Colorado to guard property and maintain order in the strike region. When the Mississippi River overflowed its banks, troops were used to rescue persons and property in peril. River and harbor improvements are executed principally under the direction of the Army Corps of Engineers. Army officers are also often used for various engineering projects of the government, such as making surveys and the building of the Panama Canal and the Alaskan Railway. In 1931 army officers surveyed routes for a Nicaraguan Canal.

The Chemical Warfare Service of the army is coöperating with other branches of the government in an effort to apply its knowledge of gases to everyday problems: it is coöperating with the Public Health Service in devising a better method of fumigating ships; with the Bureau of Mines in perfecting gas masks for the miners and in developing a practical method of manufacturing high-grade charcoal direct from coal; with the Agricultural Department in determining the toxic effect of various chemical agents upon predatory animals and harmful insects, and in fumigating fruit trees beneath a movable covering; and with the Bureau of Insular Affairs in the destruction of grasshoppers in the Philippine Islands.

Cost of War in Time of Peace. — The average annual army appropriations for the eight years just preceding the Spanish-American War amounted to \$24,000,000. In 1914, the year before the World War, the military establishment (including river and harbor improvements) amounted to \$173,500,000. Now the army costs about \$400,000,000 a year. The cost of our army, navy, interest and principal payment on war debts, pensions, and other compensations takes more than two thirds of our Federal taxes — a strong argument for better coöperation among nations!

J"

NAVY DEPARTMENT

The Secretary of the Navy has the administration of his department distributed among the following eight bureaus: navigation, yards and docks, ordnance, construction and repair, engineering, supplies and accounts, medicine and surgery, and aeronautics. The United States Naval Academy at Annapolis educates officers for the navy.¹ The navy includes the marine corps, which is carried here and there to quell disturbances on land. The average annual appropriation for the navy during the eight years preceding the Spanish-American War was \$27,500,000; it is now about \$350,000,000.

The President is commander-in-chief of the navy, as of the army. The Secretary of the Navy, like the Secretary of War, is usually taken from civil life. Strategical and tactical matters are under the control of a General Board, corresponding to the General Staff of the Army. The Naval War College at Newport prepares officers for the General Board as the Army War College prepares them for the General Staff.

¹ Midshipmen are recommended by representatives, senators, and delegates of the territories, and appointed by the Secretary of the Navy, each representative, senator, and delegate being allowed three at the present time. Also, the President annually appoints two for the District of Columbia, and fifteen at large from the United States, and the Vice-President three. One hundred enlisted men of the navy or marine corps, and twenty-five enlisted men of the naval or marine corps reserves, who pass highest on competitive examination, are appointed by the Secretary of the Navy each year. In addition, an Act of Congress approved June 8, 1926, authorizes that the number of midshipmen now allowed by law at the United States Naval Academy be increased by forty from the United States at large, to be appointed by the President from among the sons of officers, soldiers, sailors, and marines of the Army, Navy, and Marine Corps who were killed in action or died prior to July 2, 1921, of wounds or injuries received or disease contracted in line of duty during the World War.

Appointees must be between sixteen and twenty years of age, and must pass entrance examinations in six subjects or else present acceptable certificates and pass a substantiating examination in mathematics and English. The course is four years. Midshipmen are paid \$780 annually from the date of admission, and at graduation they are commissioned as ensigns.

*Acme — P. & A.*

JUNE WEEK FESTIVITIES AT THE NAVAL ACADEMY, ANNAPOLIS.

The **Five-Power Naval Treaty**, agreed upon at the Washington Conference on the Limitation of Armaments in 1922, limits naval armament until December 31, 1936, and thereafter until one of the signatories terminates the treaty by giving two years' notice. Each Power is limited to the following tonnage:

POWER	CAPITAL SHIPS ¹	AIRCRAFT CARRIERS
United States . .	525,000	135,000
British Empire . .	525,000	135,000
Japan	315,000	81,000
France	175,000	60,000
Italy	175,000	60,000

¹ Capital ships are war vessels, other than aircraft carriers, of more than 10,000 tons, or those armed with guns of 8 inches or more caliber.

The tonnage of capital ships is limited to 35,000 and guns to 16 inches; aircraft carriers to 27,000 tons and 8-inch guns.

These Powers agree not to construct for other powers war vessels with greater displacement or armament than they may construct for themselves; nor, in the event of war, may any war vessels constructed for other powers be used by the signatories.



International Newsreel.

AIRPLANES LINED UP ON THE *SARATOGA*'S DECK.

View of the United States Fleet from the *Saratoga* off the Canal Zone.

Merchant ships are not to be built for conversion into war vessels other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch caliber.

In case of war a Power may, by notifying the other signatories, suspend most of these treaty obligations for the period of the war.

This treaty did not limit the number of war craft not exceeding 10,000 tons and bearing guns of less than 8 inches. (See next section for London Conference modification of this clause.)

The Three-Power Naval Treaty. — In 1930 at the London Naval Conference, Great Britain and the United States agreed

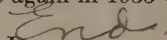
upon *parity of naval strength*, the United States accepting a slightly smaller total tonnage for the privilege of building a larger proportion of large 10,000-ton cruisers to match British 6,000-ton cruisers. Great Britain agreed to destroy 5 capital ships and the United States 3; and both agreed not to replace any old capital ships before the end of 1936.

Japan joined with Great Britain and the United States in limiting the total tonnage of all types of war craft. The Five-Power Treaty of 1922 merely limited the building of ships of over 10,000 tons, hence France and Italy may still build any number of smaller craft. But Great Britain, Japan, and the United States agree to limit all war vessels to the following tonnage.

VESSEL	U. S. A.	GREAT BRITAIN	JAPAN
Battleships (capital) . .	453,400	472,350	266,070
Aircraft	135,000	135,000	81,000
Cruisers	323,000	339,000	208,850
Destroyers	150,000	150,000	105,000
Submarines	52,700	52,700	52,700
	1,114,100	1,149,050	713,620

The so-called "escalator" clause of this Three-Power Naval Treaty provides that, if any Power not limited by this treaty should build a navy which menaces any one of the three parties to the treaty, then that party may build beyond the tonnage specified by the treaty by notifying the other two parties. They would then have the right to make the same increase in their navies.

This treaty, with several specified exceptions, is to remain in force until December 31, 1936. And the three Powers agree to meet in conference again in 1935 to determine future action.


DEPARTMENT OF JUSTICE

The Attorney-General, head of the Department of Justice, has been a member of the President's Cabinet since 1789, but

the department was not established until 1870. Besides giving legal advice to the President and heads of the other departments he is prosecuting attorney for the government, has charge of prohibition enforcement, directs the administration of the Federal court system, and supervises Federal prisons.

As prosecuting attorney the Attorney-General seldom appears in court in person. His numerous assistants prepare cases and represent him in court. One represents the government in all suits brought against the United States in the Court of Claims; another has charge of cases arising out of the administration of our customs laws; and so the work is divided.

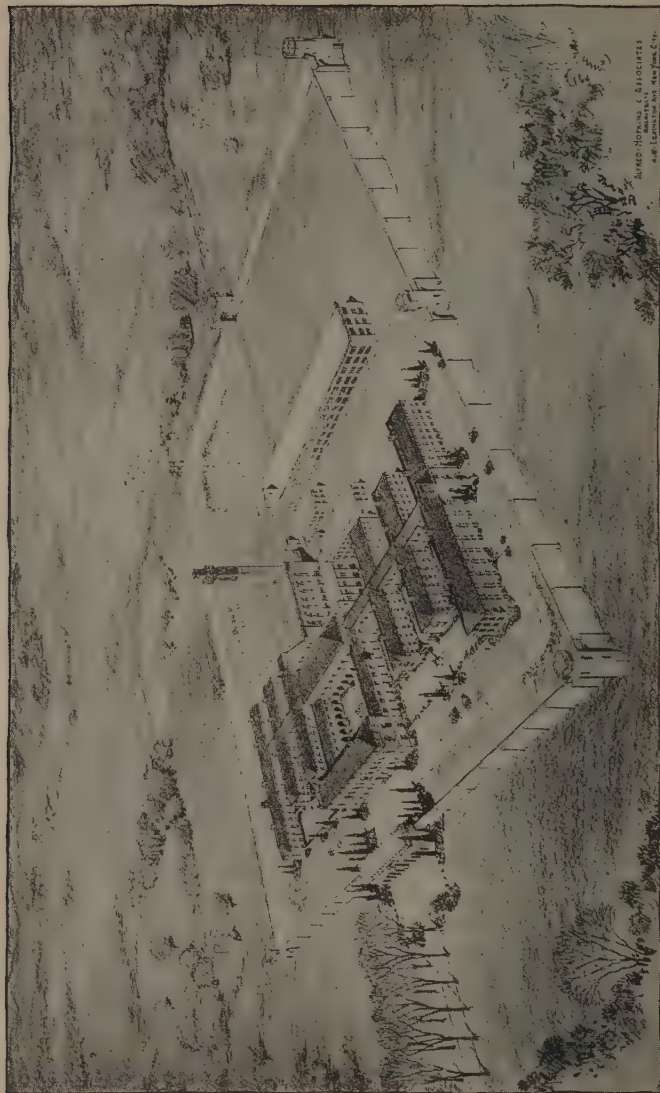
As director of the Federal court system the Attorney-General is consulted by the President in the appointment of Federal district attorneys and Federal district marshals. After these officers are appointed by the President they are under the direction of the Attorney-General.

The Bureau of Prohibition was created in 1927 to enforce the prohibition laws. It was placed under the Treasury Department because the Collector of Internal Revenue already had a corps of secret service men trained to capture "moonshiners" and "bootleggers" who often evaded the Federal taxes on liquor before the days of prohibition.

Time proved that an efficient Secretary of the Treasury might not be qualified to enforce the prohibition laws, and in 1930 Congress transferred the Prohibition Bureau, headed by the Director of Prohibition, to the Department of Justice.

Permits for the legal manufacture and sale of liquors and wines for medicinal, sacramental, and industrial purposes are now regulated jointly by the Attorney-General and the Secretary of the Treasury. But the manufacture and sale are administered by the Commissioner of Industrial Alcohol at the head of the Bureau of Industrial Alcohol which was created in the Treasury Department to replace the Bureau of Prohibition.

The Bureau of Prisons was created in 1930 with a Director appointed by the Attorney-General at its head. It has charge



ALFRED HOPKINS & ASSOCIATES
418 LEANING ROCK NEW YORK CITY

NEW FEDERAL PENITENTIARY AT LEWISBURG, PENNSYLVANIA.

of all non-military Federal penal and correctional institutions. At Atlanta, Georgia; Lewisburg, Pennsylvania; Leavenworth, Kansas; and McNeil Island, Washington State are general Federal prisons. At Chillicothe, Ohio, and at El Reno, Oklahoma, there are reformatories for first offenders over seventeen years of age. The Federal Industrial School for Women at Alderson, West



ATLANTA FEDERAL PRISON FARM.

Wide World.

On this farm "trusties" till the fields and live in the building here shown.

Virginia, is a prison for women who are not incorrigible. Here industrial training is given; and it is operated on the cottage plan, and the buildings and grounds resemble those of any girls' school.

The prison hospital at Springfield, Missouri, cares for prisoners who are insane, tubercular, or otherwise chronically ill. There is a farm for narcotic "fiends" (prisoners and applicants for treatment) at Lexington, Kentucky; and another one is to be located somewhere in the Southwest.

The Federal government operated jails in such populous cen-

ters as New York City and Detroit. In 1931 about half of the Federal prisoners were "boarded out" in county jails and State institutions.

Federal prisoners may be used to work Federal roads, build levees, reforest public lands, or for other public purposes; or to manufacture materials used by the government, but these products are not allowed to be sold to individuals.

The Board of Parole, consisting of three members appointed by the Attorney General, was created in 1930 to replace several boards which formerly paroled Federal prisoners.

Probation Officers may be appointed by United States District Court Judges — with or without salary. These officers are to aid persons on probation and to bring about improvements in their conduct and condition. They must perform such duties for persons on parole as the Attorney-General might request.

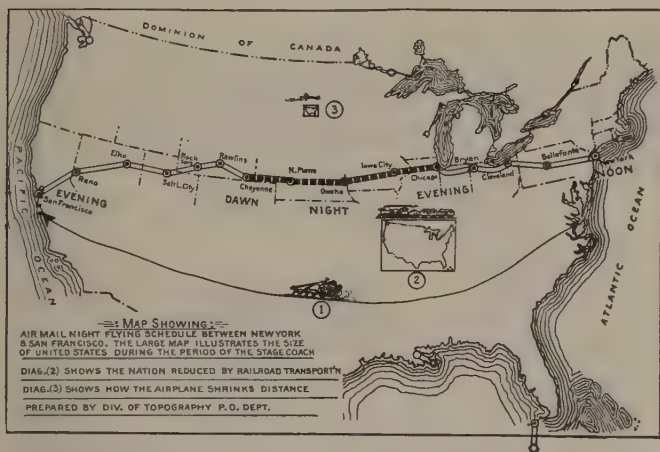
The Secret Service of the department investigates such breaches of the Federal law as violations of the National banking laws, anti-trust laws, bucket-shop laws, Chinese smuggling, customs and internal revenue frauds, and post office frauds.

POST OFFICE DEPARTMENT

The Postmaster-General is the head of the Post Office Department, which was advanced from a bureau of the Treasury Department to an independent département in 1829. He awards contracts for the transportation of mails, appoints departmental employees and fourth-class postmasters subject to the civil service rules, and sends the names of the three passing the highest civil service examinations for first-, second-, and third-class postmasters¹ to the President, who, with the consent of the Senate, appoints them. The work of the department is divided among four bureaus with an assistant postmaster-general over each.

¹ Postmasters are graded into classes according to the receipts of the office. First-class postmasters receive an annual salary ranging from \$3200 to \$12,000; second-class, between \$2400 and \$3200; third-class, between \$1100 and \$2400; and fourth-class, less than \$1100, the amount being graded according to stamp cancellation and certain specified office receipts.

Post Office Department for Service — Not Profit. — Until the middle of the last century the Post Office Department was expected to pay its own way, or even make a profit. But since 1852 postal expenditures have exceeded receipts every year except eight, including the World War period when letter postage was three cents.



THE AIR MAIL MAKES US A UNIT IN FACT AS WELL AS A UNION
IN LAW.

These annual deficits are primarily due to the desire of Congress to give generous salaries to postal employees and at the same time please the people by low postage rates and good service.

Low Postage Rates. — Originally letter postage was determined by distance and by the number of pages, envelopes not being used. Then a four-page letter from Boston to Charleston, South Carolina, cost one dollar. To-day such a letter can be sent all the way to San Francisco or to the Philippine Islands, or to some out-of-the-way mountain home for two cents.

Air Mail below Cost. — The five-cent stamp on an air letter pays only half of the cost of delivering it; but a large volume

of air mail encourages aviation so that in time an air letter can be carried for five cents at a profit.

Cheap air mail saves the public millions of dollars which they would otherwise have to spend for telegrams. It also speeds business and makes one dollar do the work of two. A check from New York to Chicago can be returned to New York the same



Acme.

TWENTY-FOUR-HOUR SERVICE FROM LOS ANGELES TO NEW YORK.

night, thus saving a whole day by train. For instance, in one mail a Chicago bank returned enough checks to New York to save the bank \$1,700 interest in one day.

Postal Subsidies to American Ships.—Our Merchant Marine Acts require the Postmaster-General to award mail contracts to American shipping lines on the basis of speed and mileage instead of poundage. It could be carried cheaper on slower boats, and still cheaper on foreign boats. But American commerce profits by having faster lines direct from American ports. And



A MESSAGE 3000 MILES IN 24 HOURS FOR FIVE CENTS.

if we should be involved in war these speedier boats would be available for military use.

Special Below-Cost Rates Are Granted Certain Periodicals Not Published for Profit. — Periodicals issued by religious, educational, scientific, fraternal, and trade union organizations, as well as health, charities, and agricultural departments of State governments, enjoy a below-cost rate of postage because they are published for the public good and not for profit.

All periodicals are probably carried below cost because congressmen do not like to offend the publishers of his district by increasing the postal rates on their periodicals. However, periodicals do pay more per pound and more for long hauls than for shorter distances on "advertising portions" of periodicals.

Free Directory Service. — It is estimated that 200,000,000 pieces of mail are given free directory service. Postal employees are forced to take time to hunt up local addresses for this great volume of letters.

Free Postage for County Newspapers. — Because of the difficulty of financing a newspaper in a rural community, any newspaper is distributed free within the county of origin at offices which do not have the free delivery service.

Free Postage for Literature for the Blind. — Libraries, or individuals, subject to certain formalities, may mail books or other non-advertising reading matter in raised type free; and the recipient may return the same free.

Reduced Postage on Library Books. — Books mailed by public libraries enjoy a special rate — a concession to encourage the reading of good books.

The Franking Privilege for Government Mail. — Congressmen, the Federal administrative services, agricultural colleges, experiment stations, etc., are permitted to send their official mail under what is called the "franking privilege." Under this privilege congressmen send free about 3,000,000 pounds of mail a year.

This franking privilege includes such official matter as the Congressional Record, reports, large documents, and bulletins

on a thousand subjects. As campaign literature is commonly taken from speeches printed in the Congressional Record, a congressman may have reprints made in the Government Printing Office at actual cost and then sent broadcast to voters under his frank; hence the bulk of this mail naturally increases during campaign years.



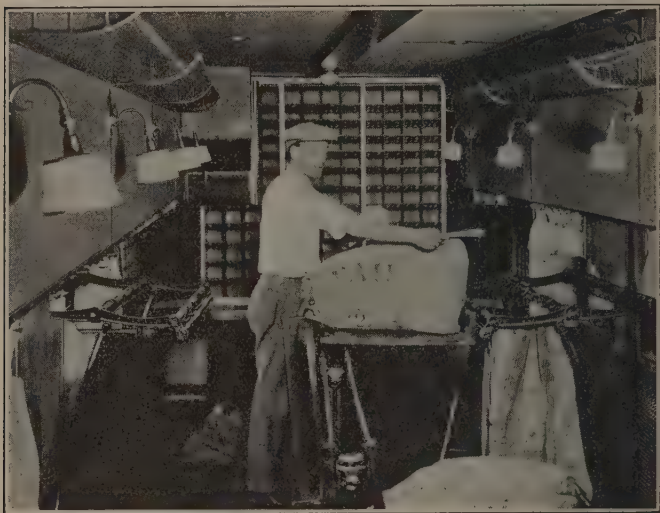
WASHINGTON POST OFFICE, WITH UNION STATION ADJOINING.

The location of this building obviates the necessity of hauling the mail to and from the station.

The Annual Deficit of the Post Office Department has exceeded \$100,000,000. (See page 225.) Roughly speaking, half of this deficit is due to the special services mentioned above and half to the successful pressure upon Congress by the organized postal clerks for shorter hours and more pay.

New post office buildings are not paid for by postal receipts but from the general fund of the government. Therefore the rental value of government-owned post offices might be listed each year among the expenditures of the United States Government.

Improvements in the Service. — Among the improvements made in our postal service during the past half century the following might be mentioned: registration of letters with limited insurance, free city delivery, money orders, one-cent post cards, inexpensive stamped envelopes, two-cent postage at home and to many distant countries, special delivery, street boxes, rural



Erving Galloway.

FIRST AERIAL POST OFFICE.

This mail plane, built for the San Francisco-Chicago service, is convertible. The post office equipment can be removed easily and be replaced with chairs for passengers. The plane can carry 3000 pounds of mail.

free delivery, postal-savings banks, parcel post, a constantly expanding nation-wide and international air service, guaranteed return postage permits, and metered devices set by the postmaster for a given number of stamp-substitute impressions paid for at the time of setting and automatically locking upon the exhaustion of the paid-for impressions.

Prohibited Articles. — The following articles cannot be sent through the mails: parcels beyond a specified weight and size,

poisons, explosives, liquors for beverage purposes, live animals and other things dangerous to the mail or the postal employees; concealable firearms except to dealers and officers; obscene matter, lottery tickets or other prize schemes dependent upon chance; and fraudulent schemes. Some matter is excluded except under regulations prescribed by the Postmaster-General.

Fraud Orders. — When any person or firm attempts to procure money or property through the mails by fraudulent schemes, or schemes of chance, the privileges of the mails are withdrawn from the offender.

If the Postmaster-General decides that a business is fraudulent he issues a "fraud order" to the local postmaster and to the person accused, whereupon the postmaster stamps the word "fraudulent" upon all letters addressed to the accused and returns them to the writers if there are return addresses upon the envelopes; if not, they are sent to the Dead Letter Office in Washington, where all unclaimed letters are sent to be opened and forwarded to the address found inside.

The most vicious type of frauds includes the so-called work-at-home scheme and the scheme for the sale of various nostrums represented to be cures of disease. Some years ago a fraudulent firm under the pretentious name of the National Mail Order Brokerage Exchange, mailed letters from Minneapolis offering a \$4.50 silk petticoat for ten cents in silver on condition that the purchaser notify five friends of the offer, and request each one of them to do likewise. More than 500,000 orders arrived at the Minneapolis office. The perpetrator received only about 300 dimes before a Fraud Order routed him, but it cost the Government \$20,000 to return these letters.

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Annual Report of the Secretary of the Navy.

Annual Report of the Attorney-General.

Annual Report of the Postmaster-General.

QUESTIONS ON THE TEXT

1. What are the duties of the Secretary of War?
2. What are the duties of the Adjutant-General? Inspector-General? Surgeon-General? Chief of Finance? Chief of Engineers? Chief of Ordnance? Judge-Advocate-General? Chief of the Chemical Warfare Service?
3. Why was the General Staff created? Of whom does it consist? What are its duties?
4. What is the Army War College? Of whom does it consist?
5. What studies are pursued there?
6. Of what forces is the United States army composed? Is your father a member?
7. For what purposes may the President use the army in times of peace?
8. What is the cost of war in times of peace?
9. What are the duties of the Secretary of the Navy?
10. How are naval cadets appointed? What pay do they receive while they are being educated? Answer the same for military cadets.
11. Discuss the cost of our navy.
12. Who is commander-in-chief of the navy?
13. What is the purpose of the General Board?
14. What are the provisions of the Five-Power Naval Treaty? Of the Three-Power Naval Treaty?
15. What are the duties of the Attorney-General?
16. How is the work of the Department of Justice divided?
17. What are the duties of the Secret Service of the Department of Justice?
18. Why was the Bureau of Prohibition originally in the Treasury Department? Why was it transferred to the Department of Justice?
19. Explain how the United States has specialized in types of prisons.
20. How may Federal prisoners be used outside of prisons?
21. What are the duties of the Postmaster-General? What salaries are paid postmasters?
22. Explain why there is an annual deficit in the Postal Service.
23. What is meant by the *franking privilege*?
24. What improvements have been made in the postal service during the past fifty years?

25. What articles are excluded from the mails?
26. What is a *fraud order*, and by whom is it issued?

QUESTIONS FOR DISCUSSION

1. Mention some purposes for which you think the army could be used other than those for which it is now used.

2. Professor Bogart of the University of Illinois estimated the direct costs of the World War at more than \$186,000,000,000. The indirect costs he puts at over \$151,000,000,000. His estimate of the total cost reached the stupendous figure of more than \$337,000,000,000. How many miles of paved road would this amount pay for at \$25,000 a mile? How many universities would it endow so that a six per cent investment would yield \$1,000,000 annually?

3. A single war vessel of the superdreadnaught type costs about \$25,000,000, or enough to pave a thousand miles of road which would last about twice as long as the vessel. Is not the fact that nations seem to find it necessary to waste such large amounts a great reflection upon civilization and Christianity? How do you think the need of so many war vessels might be avoided?

4. During the past twenty years the number of men in the navy has increased from 38,500 to 82,000, but the number of officers has increased from 2,204 to 8,574. In the army the number of officers has increased to a like disproportion. These officers were selected young men and well educated at West Point or at Annapolis. During this same period crime in the United States has been on the increase. Most of our peace officers have received less education; they receive less pay, are insecure in their tenure, and are not pensioned. Would you consider it wise for Congress to use some of these naval or army officers in times of peace in connection with the Department of Justice to act as a secret service force in locating the numerous criminals who flee from State to State or operate in a number of States at the same time? Would you also favor assigning certain of these officers to State governors, upon request and without cost to the State, as assistants in enforcing the laws of the State? In what respects do you think these officers would have stronger incentives to resist bribery and enforce the law than local officers?

5. Dr. Will Durant, philosopher, advocates a "United States Civil Academy," rivaling the Naval Academy at Annapolis and the Military Academy at West Point. Would you favor such a government supported academy to prepare foreign service officers, civil employees in Washington, State police officials, city managers, etc.?

6. In February, 1849, Representative J. G. Palfrey made the following appeal for a reduction in the rate of postage: "How mightily would a reduction in the rate of postage operate on the activity of business, and accordingly on the wealth of the nation! How would science, letters, invention, benevolent enterprises, rejoice in this privilege of cheap communication! What an intellectual action would it quicken in every class! I think very much of colleges. I dearly love common schools. But I shall not at present say that cheap postage will not turn out to be an institution for education more efficient than either. It would set everybody to learning to read and write who had not already learned; and those who had, it would teach to describe, and narrate, and think, and would excite them to study and observe.

"Cheap postage would cultivate affections. Friends, brothers and sisters, and even parents and children, separate to spend the rest of their lives apart. Why is it that in time many become almost strangers to one another? Why does not a letter sent and received two or three times a week keep up their interests in their homes, renew constantly a pure enjoyment, and afford the best security against every moral danger? It costs too much.

"Cheap postage would bring better mutual acquaintance of citizens of different parts of the republic, cementing the political union through their free interchange of thought." Has Mr. Palfrey's prophecy come true?

7. Postmaster-General Brown recommended an increase in the rate of first-class mail of a non-local destination from two cents an ounce to two and one half cents. First-class mail pays its own way, but it is a government monopoly and the rate can be increased without competition. To increase postage on parcels or periodicals might cause them to be shipped by express. Do you favor the increase?

8. Would you favor a five-cent postage rate on letters mailed to a city of more than 5000 population without giving the street address?

9. When a new post office building is erected in a small town the janitor for the new building often costs as much as the rent of the former quarters. This appears extravagant. On the other hand, a new, well-ventilated, and lighted building of pleasing architecture may inspire the people of the town with respect for the government and for other civic improvements. Do you favor a government-owned post office even if it costs more than a rented one?

10. Learn from your postmaster what is included in first-, second-, and third-class mail, and the rates on each. What articles can be sent by parcel post? Can you insure a parcel? Send it by special delivery? Send it C. O. D.?

11. It has been discovered that the farmers who produce much of the food consumed in New York City get for their products only 40 per cent as much as the consumer pays for them. How can the National government help to remedy this situation?

12. The general post office and 23 of the larger postal stations in New York and the general post office at Brooklyn are connected by 27 miles of double 8-inch pneumatic tubes which carry first-class mail at the rate of 30 miles an hour. Is such a system justified even if it costs more than motor bus service?

13. It is unlawful to use the mails for a fraudulent purpose. For instance, some years ago a young man from a distant State went to Maryland, married a wealthy woman, and persuaded her to send him to Philadelphia to study medicine. The young man used the allowance to support himself in idleness instead of devoting it to an education. But, inasmuch as he had used the mails to request money fraudulently from the Maryland woman, he was prosecuted by Uncle Sam.

We have seen how the United States Government has expanded its powers through its right to regulate interstate commerce and its right of taxation. Is this right to prevent fraudulent use of the mails likely greatly to increase its powers?

14. In a New Zealand post office a person can buy stamps, mail a letter or parcel, send a telegram, deposit money, collect a pension, report births and deaths, and insure his life. What new functions do you think our postmasters might economically perform?

15. Three weeks after the expiration of his term a congressman was sent to Leavenworth Prison for a year and a day and fined \$2000 for having accepted \$750 to use his influence as a congressman in securing a rural mail carriership for one of his constituents. Explain why this was a serious offense.

CHAPTER XII

INTERIOR, AGRICULTURE, COMMERCE, AND LABOR DEPARTMENTS

DEPARTMENT OF THE INTERIOR

The Secretary of the Interior is the head of the Department of the Interior, which department grew out of the large accession of territory following the Mexican War. In 1849 various functions were withdrawn from the other departments to form this new department of unrelated governmental bureaus and divisions, of which the following now remain: general land office, geological survey, bureau of reclamation, Indian affairs, office of education, national park service, eleemosynary institutions,¹ and the territories of Hawaii and Alaska including the administration of the Alaskan railroad.

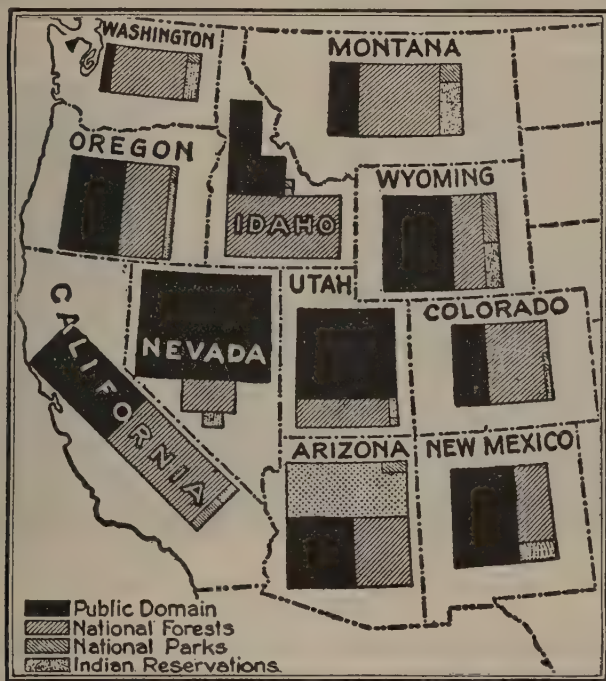
The Department of the Interior is the land, home, and education department of the Government. It is the fact-finding department for internal development, and through its national park service it handles the national playgrounds of the people.

The General Land Office, the most important bureau of the department, has charge of the survey, management, and disposition of nearly 194,000,000 acres of public lands of the United States.

Disposition of the Public Lands. — Large tracts have been sold to land speculation companies, given to railroad corporations in order to promote the construction of railroads and thus develop the country, given to States for public schools, agricultural colleges, internal improvements, and homesteaded.

¹ St. Elizabeth's Hospital, Freedman's Hospital, Howard University, and Columbia Institution for the Deaf, all in the District of Columbia.

Homestead Acts. — For nearly a hundred years the government has given, or sold for a small price, a tract of land to a head of a family who would establish a home thereon. According to the present law, any head of a family may acquire 160 acres by



From New York Times.

MORE THAN HALF THE LAND IN THE ABOVE STATES IS HELD BY THE NATIONAL GOVERNMENT.

living on it for three years, cultivating a certain part of it, and paying a small fee. The best of the lands available for homesteading have now all been occupied.

Grazing lands can be homesteaded in tracts of 640 acres. But these are in arid regions and have proved impracticable for

individual undertakings. The situation has been characterized like this: "Uncle Sam bets a man 640 acres of land that he cannot live on the land five years, and Uncle Sam usually wins." The few who are able to spend the necessary parts of five years on the homesteads usually sell their claims to a nearby livestock company.



Photo by U. S. Forest Service.

SHEEP GRAZING IN SEVEN DEVILS COUNTRY, NEZPERCE NATIONAL FOREST, IDAHO.

Extent of and Exploitation of Public Lands. — The original States surrendered their public lands to the National government, which assumed the State debts. Other public lands were acquired by conquest or purchase in our westward expansion. Most of this land was sold or given to settlers; but large tracts were given to railroads as an inducement to build into the unsettled West; much was given to States for education; but much, and the worst, remains national lands.

Ignoring State and railroad lands that have passed into private ownership, we have an expanse of national land equal in area to

Texas, State lands equal to the Middle Atlantic States, and railroad lands equal to New England, all of which is uninclosed "open" range. Much of this was once well supplied with grass, but by allowing everybody to graze the land it became so overstocked that much of it has become mere dusty plains — the water now washing gullies instead of being conserved by a heavy turf.

The following passage is self-explanatory: "In the old days cattle grazed knee-deep in verdure, rains sank into a spongy ground-covering and found its way gradually into the streams. But for a generation the range has been so overgrazed that every spear of grass has been cropped when it appeared and has been prevented from making seed for later growth. The ground has become bare, trampled hard by much grazing. Rainfall runs from bleak, hard hillsides as it might from a tin roof. It cuts deep gullies in them, washes the rich humus from the surface, and exposes the underlying clay. Freshets go tearing down the Rio Grande, mud laden, and the vegetation-producing soil finally comes to rest in the reservoir created by the Elephant Butte dam, decreasing its storage capacity. A splendid asset, neglected, has become a local menace."

President Hoover advocated giving these lands to the States, believing that they best understand the problem because it is at home. Or, the United States government might lease large tracts of this land for long periods of time with the agreement that not exceeding a specified number of cattle or sheep may ever be grazed on the leased land, thus giving that which is not absolutely ruined a chance to re-verdure itself.

The Geological Survey has made topographic and geologic maps of nearly half of the surface of the United States; and because of this work we not only know the height of hills and the volume of water which flows in streams, but we know where valuable minerals occur below the surface.

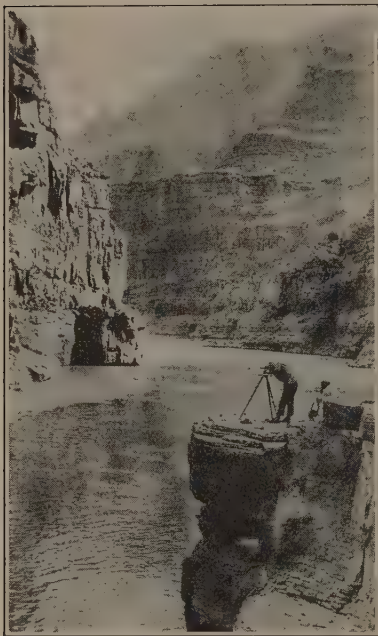
As an illustration of the value of this work, some years ago when the Lackawanna Railroad relocated thirty-four miles of

its main line the engineer of construction sat comfortably at his office desk and ran all the preliminary surveys, and even made the final location for the \$12,000,000 improvement from the data

contained on the topographic sheet.

Mineral Rights Reserved.

—The Geological Survey not only makes mineral surveys but it classifies the public lands and supervises the engineering phases of mineral leasing. For some years homesteaders have acquired only surface rights, the mineral rights remaining with the government. The government then leases mining, oil, and gas rights on the homestead lands as well as the public lands for a period of years on a royalty basis; and a portion of this royalty is given to the State in which the leased land happens to be.



UNITED STATES GEOLOGICAL SURVEYOR
AT WORK.

Petroleum and natural gas are found in underground "lakes." Hence when oil and gas are "struck" in a locality every one who owns land or has a government lease drills for oil, and the one who operates fastest makes the most money because he can drain the liquid oil or gas from his neighbors' subterranean lakes. This situation results in a wild rush, over-production, low prices, and the encouragement of waste both on the part of the producers and the consumers. As an example of this waste in production,

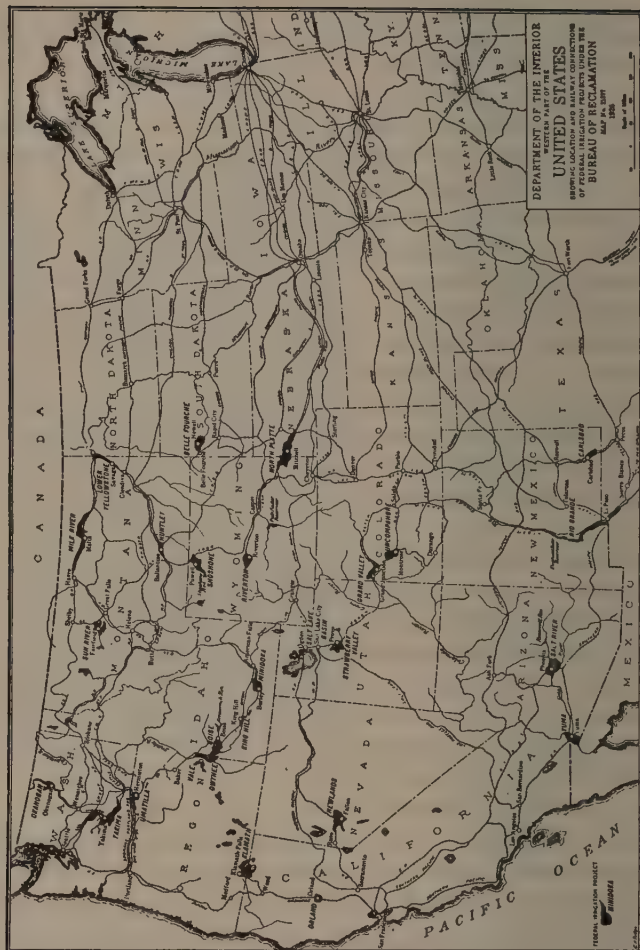
at Kettleman Hills, California, a score of interests had sunk and capped some thirty wells and were operating six. The gas wasted from these wells exceeded 450,000,000 cubic feet of gas a day. If the production of the high-grade oil at Kettleman Hills had been allowed to flow under the ordinary old-fashioned wasteful conditions it would have flooded the market with gasoline exceeding in quantity the entire California production.

Part of the 10,800 acres of Kettleman Hills was owned by the Standard Oil Company, part by other interests, and part was leased from the government by the same or other interests. To conserve our oil which was so wastefully being exploited, Congress in 1930 and 1931 authorized the Secretary of the Interior to permit government lessees to pool their interests with others for unit production. Therefore, in 1931, these various interests formed the Kettleman North Dome Association — a corporation which will operate the pool as a unit for the life of the field, dividing the profits on the basis of the acreage held by each interest.

The government's approval of this pool increased the price of gasoline for the general public for some months, but it conserved oil competition for years.

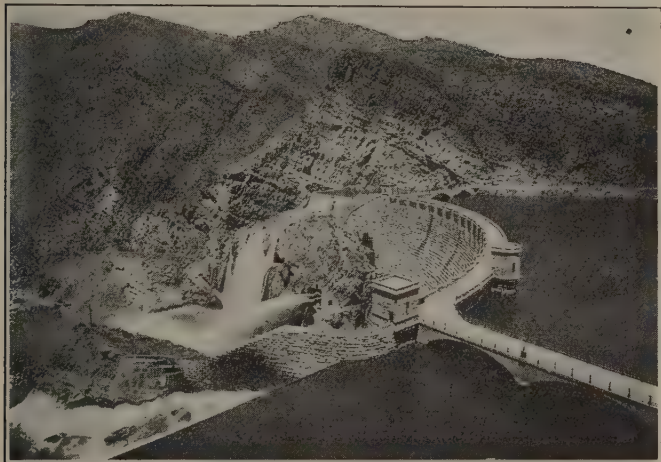
The Bureau of Reclamation. — *Introduction.* — Brigham Young, traveling with his caravan to Utah, told his Indian scout that he intended to plant a farming community beyond the mountains. The scout pooh-poohed the idea and offered a thousand dollars for the first ear of corn that was grown. In July, 1847, these pioneers came from Immigration Canyon into the parched Salt Lake Valley. They unhitched their teams along the little stream now known as City Creek; and the same afternoon they unloaded their plows and began breaking this dry desert land. The next day the stream was diverted, the plowed land irrigated, and potatoes planted. This was the beginning of Anglo-Saxon irrigation in the West. To-day 200,000 people live in this Salt Lake Valley region.

During the last half of the nineteenth century Congress



passed Acts encouraging irrigation projects by private investors, and later by States. But the capital, population, experience, and jurisdiction of a single State was too small, and little was accomplished.

Reclamation Act of 1902. — In 1902, largely through the efforts of President Roosevelt, the Reclamation Act was passed. This Act, and later ones, sets aside funds obtained from the sale and



ROOSEVELT IRRIGATION DAM NEAR PHOENIX, ARIZONA.

lease of public lands as a permanent “revolving fund” to be applied to the reclamation of arid lands. When an irrigation project is completed the land is sold to farmers in small tracts on easy terms, and the money collected from these sales goes into the revolving fund to be used in the construction of additional irrigation plants.

Accomplishments. — The Bureau of Reclamation has built up a staff of experts on irrigation now competent to handle the enormous Hoover Dam Project (see page 22) and its projects now water an area of between two and three million acres which



RIO GRANDE PROJECT, NEW MEXICO-TEXAS.

An onion field is here being irrigated by the use of canvas dams.



FIRST IRRIGATION ON AN EARLY FIELD OF OATS, GRAND VALLEY PROJECT, COLORADO.

Corrugation is the principal method used in irrigating grain and alfalfa — especially where there is considerable slope.

produce products valued at between \$100,000,000 and \$200,000,000 annually.

Some projects have not attracted enough settlers to make the projects an economic investment for the government, but the total results are satisfactory. Where there was practically nothing there is now property worth half a billion dollars. When one sees a train of 167 cars of cantaloupes pulling out of an irri-



MILK RIVER PROJECT, MONTANA.

Hauling sugar beets from a field which produced 2 tons to the acre.

gation project, or an even longer train of lettuce, he cannot help thank his government for the fruits of its labors.

The Commissioner of Indian Affairs has charge of the lands, moneys, schools, supplies, and the general welfare of 300,000 Indians living on reservations in the United States.

When the white man pushed the Indians westward he set aside portions of the public domains, called "reservations," and within these areas the Indians were allowed to practice their tribal customs. The Indian tribes on these reservations were

regarded as nations and the government made treaties with them; but in 1871 this policy was abandoned and their property was brought directly under the legislative power of Congress.

By a number of laws enacted since 1887 the President has authority to allot reservation lands to individual Indians as

private holdings. Indians that are considered competent may be allowed to sell their reservation property, but if the incompetent ones have been allotted individual property they are restricted in their right to dispose of it.

The Commissioner of Indian Affairs acts as a sort of trustee to supervise the leasing of forests, water power, and mineral lands of reservations, and turns the proceeds over to the Indians entitled to it, or holds it in trust where collective ownership prevails. If the income from their property is not sufficient, Congress, because of



"THOSE WHO CAN PRODUCE MOST FROM LAND WILL ULTIMATELY OWN IT."

treaty right or mere sympathy, may provide supplies or other grants for them.

Congress provides free day and boarding schools for Indian children, but more than half of the Indian school children are now in State public schools with white children, and this number is constantly increasing. The National government pays tuition for them in some communities, while in others this is not required.

In 1924 Congress extended American citizenship to all Indians born within the territorial limits of the United States. The great aim is to prepare Indians to perform social, political, and legal duties of citizenship and to "hoe their own row" as any other citizens of the State in which they live.

The Office of Education is a "national clearing house" for educational information. It collects educational statistics, advises educators as to improvement in schools, and issues an annual report, a biennial survey, and numerous bulletins. (See Chapter XXVIII.)

The Bureau of Pensions, long in the Interior Department, was consolidated in the Veterans Administration in 1930. (See page 320.)

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DEPARTMENT OF AGRICULTURE

The Secretary of Agriculture is the head of the Department of Agriculture, which, until 1889, was the Bureau of Agriculture in the Department of the Interior. The functions of the department are divided among the following bureaus: animal industry, dairy industry, plant industry, weather, forest service, chemistry and soils, entomology, biological survey, public roads, agricultural economics, home economics, experiment stations, extension service, plant quarantine and control administration, food, drugs, and insecticide administration, and grain futures administration. (See pages 288 and 315 for marketing, and page 314 for Farm Board.)

An important branch of the department's work is *scientific research*. For example, it discovered that the growth of plants and seed production are greatly influenced by the length of the day; so now, by shortening the day artificially by darkening greenhouses, it is possible to cross-pollinate plants which formerly could not be crossed because they grow in different latitudes.

The department also conducts *scientific investigations*. For example, it has demonstrated that many kinds of dusts will

explode. Millions of dollars in property and hundreds of lives have been lost by the explosion of threshing machines and grain elevators. Grain smut, which is extremely explosive, is now blown from machines by fans which prevent explosions. In-



FUMIGATING EGYPTIAN COTTON IN A BOSTON WAREHOUSE.

Each cylinder accommodates fifty-two bales, which can be removed, fifty-two more introduced, and the door closed within three minutes. An inspector of the Federal Horticultural Board is constantly present to see that the cotton is properly fumigated.

prevents unfair practices by these slaughter houses, such as the agreement to fix prices; it sees that cattle are not kept in railroad cars more than 28 hours without being unloaded for food and water; it guards interstate commerce against fake remedies offered to farmers for ridding crops of insects and diseases; it enforces our treaty with Canada for the protection of numerous migratory birds; and it controls Federal aid given to State highways.

The Bureau of Animal Industry regulates the National quarantine for live stock, studies animal diseases, and is carrying

investigation of the durability of different types of road is an important branch of its work.

Extension work is carried on by the department through lectures, demonstrations, exhibits, and moving pictures; and it issues quantities of agricultural literature.

There are more than forty laws of a regulatory character administered by this department. It enforces the Food and Drug Act; it sees that every animal killed in a slaughter house engaged in interstate business is inspected before and after being killed; it



Courtesy Woodward and Lothrop.

ADMINISTRATION BUILDING FOR THE DEPARTMENT OF AGRICULTURE.

This new portion of the building connects the two existing wings which were, with great foresight, built with funds then intended for the whole building.

on a determined campaign to root out tubercular cattle. By experiments in the breeding and feeding of live stock and poultry, it has discovered that about one fourth of the dairy cows of the United States do not pay for their feed, and if the bureau's directions were followed as to the best breeds of chickens to keep and how to feed them it is estimated that the increased annual value of eggs would be \$50,000,000.

The Bureau of Plant Industry ransacks the world for new crops suitable to the American soils. During the past quarter-century more than 50,000 new plants or seeds have been brought here for trial, and many of them are an important part of our agriculture. In 1870 it brought the navel orange from Brazil and introduced this fruit in California, where it has become one of the principal crops. It has introduced the soy bean from China and the pistachio nut from Western Asia. From Egypt it introduced the long fiber Pima cotton which has brought prosperity to the Salt River Valley of Arizona.

The Bureau of Entomology combats insects which are a menace to crops, animals, and persons. A favorite method of fighting insect pests that come from a foreign shore is to go back to the home of the pest and discover its natural enemy. When the white scale of citrus fruit threatened this fruit industry of California, the ladybug was imported from Australia to save the industry. From California the ladybug was carried to various sections to prey upon the aphids and plant lice. One ladybug will eat about two hundred plant lice a day. The Smyrna fig trees of California did not bear until a friendly little fly, which is the go-between in fertilizing the fig, was imported.

The Biological Survey investigates the relations of birds and mammals to the work of farmers and stockmen.

The Bureau of Chemistry and Soils finds new uses for the products of the farm, discovers processes for converting agricultural wastes into useful commercial articles, and assists in improving present processes of manufacturing what the farmer grows. The farmer can learn which of his fields are best adapted

to certain crops by consulting the physical and chemical surveys which the Bureau has made of his soils. He can thus scientifically apply fertilizers according to experiments carried out by the Bureau.



Bureau of Chemistry and Soils.

NO FERTILIZER APPLIED.

FERTILIZER APPLIED.

The Weather Bureau receives reports of heat, cold, clouds, rain, snow, and the direction and velocity of the wind from stations on land and hundreds of ships at sea. From this information well-trained officials forecast weather conditions. Daily storm warnings are of especial value to aviators and they save millions of dollars invested in vessels, besides many lives. Frost warnings serve the growers of fruit and vegetables; flood forecasts, often a week in advance, enable farmers to save live stock and other property. Freezing forecasts enable railroads to save perishables in transit, greenhouses to fire their boilers, gasoline engines to be drained, concrete work to be stopped, ice factories to reduce their output, and merchants to adjust their advertising. Rain forecasts protect the raisin crop, enable fruit growers and farmers to harvest and shelter crops, and protect the manufacturer of lime, cement, and brick, as well as photographers. Humidity forecasts are useful to silk and candy manufacturers.

The climatologist tells us, in terms of averages, what weather may be expected in a given locality for years to come, as based on past experience. These statistics assist agriculture, engineering, transportation, sanitation, etc. In the insurance business information regarding the prevalence of lightning, tornadoes, hail storms, and rainfall is needed.

The following story illustrates the value of the Weather Service to aviation.

"Two passenger planes stood on the runways at Swan Island recently. One was to go north to Seattle and the other south to San Francisco. From a doorway emerged a man carrying a sheet of paper with certain

technical notations. To one pilot he handed an order to gain an altitude of 7500 feet as he headed south, and to the other an order to travel north at a 4000-foot elevation.

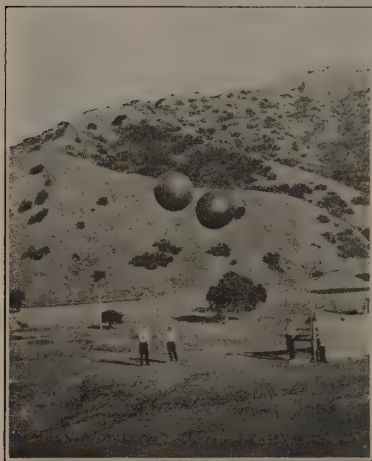
"Propellers whirled and the planes skimmed the surface of the field, gained altitude, banked and headed in opposite directions. When the control boards in front of the pilots indicated that they had gained their respective levels, both planes found strong tail winds and rode on the wings of the gales into port, making record time.

"This apparent aeronautical paradox was the result of careful studies of weather and air currents by attachés to the United States weather bureau. Without the information supplied by the observers, discovery

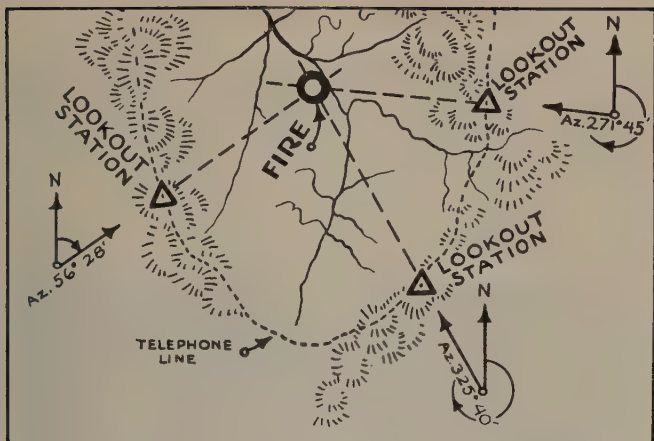
of the favorable winds blowing in opposite directions high overhead would have been a matter of chance, with the probability that at least one of the planes would have bucked a head-wind instead of being helped on its journey by the great force of nature.

"By equipment of planes with radio sets it is now possible to communicate weather data to pilots at regular intervals, and oftener if required by the operator of a passenger or mail ship to guide it safely on its way. Storms, fog, rain and winds are thus losing some of their perils."

The Forest Service has charge of National forest reserves — now approximately 160,000,000 acres. The preservation of



LAUNCHING SOUNDING BALLOONS AT
AVALON, CALIFORNIA.



LOCATING A FIRE.

The "lookouts" draw sights on the fire and 'phone their observations to a dispatcher. He extends the various lines of sight on his own map. Intersections of the lines gives the fire's location.



USING THE OSBORNE FIRE FINDER.

these forests is of great value because they prevent floods which denude the soil, and they conserve the winter rain and snow that make rivers navigable in summer, irrigate plains, and supply pure water for our cities and towns. Besides conserving the rainfall, and providing recreation for our city dwellers, the Forest Service is planting and conserving slow growing trees to supply the lumber needs of the coming generation.



Photo by U. S. Forest Service.

KLAMATH NATIONAL FOREST, CALIFORNIA.

The fire fighters are here trenching a fire line.

The forests are constantly patrolled by mounted rangers, and during the dry season also by aviators who detect fires and prevent the stealing of timber. Aviators have also been used to scatter seed during the wet season. Ingenious methods are often used to aid in the work. For instance, homing pigeons have been carried from ranger stations to a fire area and released with messages when unforeseen emergencies arise.

After a forest tree reaches maturity it decays, therefore the government sells the mature trees which must be cut without injury to the remaining forest. The forests may also contain

minerals and waterfalls which are leased on a royalty or rental basis. The forests are also valuable for the grazing of livestock which were once allowed to graze practically unrestricted; but to prevent the destruction of herbage by over-use, a fee is now charged and the number of animals admitted is limited to the



Photo by U. S. Forest Service.

SAINT JOE NATIONAL FOREST, IDAHO.

The planting crew is setting out seedlings in this burnt-over forest. It's a good way to employ unemployed.

capacity of the land. In other words, forest grazing ranges as well as forests are being conserved.

The income from National forest lands is shared with the communities in which such forests are located, thus overcoming the objection sometimes heard that Uncle Sam pays no taxes.

Federal-Aid Highways are built by State highway departments but subject to various restrictions because the National government bears a portion of the cost. The National government's

share in the cost of these roads is 50%¹ but not exceeding \$25,000 a mile, and the States are to designate for this aid not exceeding 7% of their total road mileage until this is improved, and if a State does not maintain these roads when built in a manner approved by the Secretary of Agriculture, he may have them repaired and deduct the cost thereof from the Federal funds allotted to such State. The National aid is apportioned among the States in the following manner :

One third in the ratio which the area of each State bears to the total area of all the States ;

One third in the ratio which the population of each State bears to the total population of all the States ; and

One third in the ratio which the mileage of rural delivery routes and star routes in each State bears to the total mileage of rural delivery routes and star routes in all the States. (See page 262.)

Aids in Marketing. — In 1930 Congress directed the Secretary of Agriculture to suppress unfair and fraudulent practices in the marketing of perishable agricultural products in interstate and foreign commerce. He requires dealers in these products to have a license, he appoints inspectors, and he may prosecute dealers guilty of unfair or fraudulent practices.

DEPARTMENT OF COMMERCE

The Secretary of Commerce is the head of the Department of Commerce. This department gathers census statistics ; regulates standards and measures ; propagates and distributes fishes ; maintains lighthouses ; supervises navigable waters, coast and geodetic survey work, and steamboat inspection ; registers patents, etc. ; promotes the development of mining ; enforces Acts pertaining to radio and to air commerce ; and encourages foreign and domestic commerce.

¹ States containing untaxed public lands equal to not less than 5% of the total area receive a somewhat larger percentage of the cost of these roads.

The Census Bureau. — *Decennial Censuses* have been taken in the United States every decade since 1790; but the facts gathered in 1930 were more extensive than at any previous census. During the month of April, 1930, over 100,000 persons were engaged in taking the census. They asked the following questions about each person in the United States:

1. Your name?
2. Your relationship to the family (head, wife, son, etc.)?
3. Is your home owned or rented?
4. Estimated value of home, if owned; monthly rental, if rented?
5. Is there a radio set in your home?
6. Do you live on a farm?
7. What is your sex?
8. What is your color or race?
9. What was your age at last birthday?
10. Are you married, single, widowed, or divorced?
11. What was your age at first marriage? (For married persons.)
12. Have you attended school or college since Sept. 1, 1929?
13. Are you able to read and write?
14. Where were you born?
15. Where was your father born?
16. Where was your mother born?
17. What is your native language? (For foreign-born persons only.)
18. In what year did you immigrate to the United States? (For foreign born.)
19. Are you naturalized? (For foreign born.)
20. Are you able to speak English?
21. If you are a gainful worker, what is your occupation?
22. In what industry are you employed?
23. Are you an employer, employee, or working on your own account?
24. Were you actually at work yesterday?
25. Are you a veteran of the United States military or naval forces; and if so, in what war or expedition did you serve?

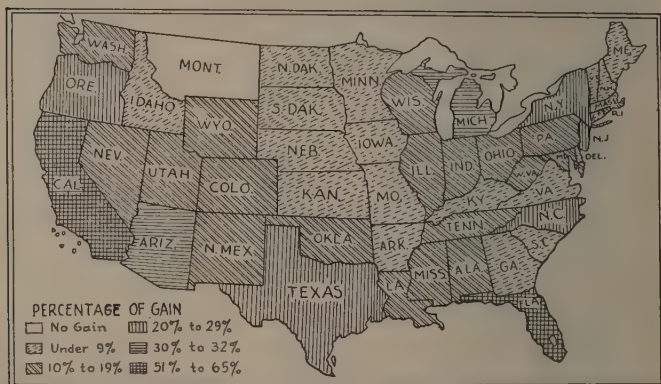
If the individual answered "No" to question 24, he was asked whether he had a job and was merely temporarily idle or whether he had no job at all. If he had a job, he was asked:

1. How many weeks since you have worked or had a job?
2. Why were you not at work yesterday (or the last regular working day)?

3. Did you lose a day's pay by not being at work?
4. How many days did you work last week?
5. How many days in a full-time week?

If the individual had no job at all, he was asked:

1. Are you able to work?
2. Are you looking for a job?
3. For how many weeks have you been without a job?
4. Reason for being out of a job, or for losing your last job?



INCREASE OF POPULATION FROM 1920-1930.

See Appendix III for population figures in detail.

After the 574 supervisors of the census of 1930 sent the schedules to Washington, the facts about each individual in the United States were registered on a separate card by punching machines which punch a hole to correspond with each fact. The cards were then sorted by electric sorting machines for each kind of information desired. And finally the facts were tabulated by a complicated mechanism which can count and register 59 combinations of facts each time the cards run through the machine at the rate of 400 a minute.

It required about two years to tabulate and print the 1930 census. Besides the 100,000 persons required to take the census,

a maximum of 6000 was employed to tabulate the results. The total cost of this census was nearly \$40,000,000.

Preservation of Census Records. — The statistical information of the census is published, but names and tales are not told at the same time. We know how many people there are fifty years old, but we are not told who they are. The public is not at present allowed to examine the records for any census since that of 1870, although under certain conditions an individual may secure a transcript of more recent records.

Duties between Decennial Censuses. — There are about 600 permanent employees in the Census Bureau to collect a variety of statistics at regular intervals.¹

The Census Bureau maintains its own mechanical laboratory where new machines for tabulating census information are continually being designed and constructed. As a result, the United States has the best mechanical devices for census-taking in the world. (For the value of the census see page 11.)

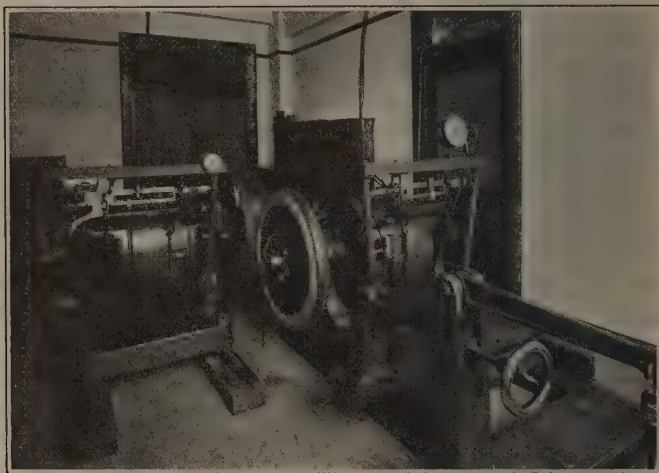
The Bureau of Standards is housed in a group of buildings on a large plot of ground in Washington which resembles a scientific college campus. It standardizes a great variety of things from scales and time pieces to sole leather and bed springs.

Under the Dingley Tariff the tax on sugar was so poorly defined for lack of accurate tests for grade that importers paid the tax under protest for years, and when the Supreme Court finally decided in favor of the importers the government had to return to these importers about \$5,000,000 notwithstanding

¹ The subjects covered by the Census Bureau only once every ten years outside the regular decennial census are religious bodies; estimates of national wealth; defective, dependent, and delinquent classes in institutions; and transportation by water. Every fifth year the Bureau takes a census of agriculture and a census of electrical industries, including under the latter head telephones, telegraphs, electric railways, and central electric light and power stations. Biennially it takes a census of manufactures; and annually it compiles statistics of births, deaths, marriages, and divorces, and also financial statistics of States and cities. Then there are many classes of data which are compiled and published quarterly or monthly or at even briefer intervals.

the fact that the tax had already been shifted to the consumers of the sugar. This illustrates one value of standardization.

Tests show that sole leathers first tanned with chromium salts and then retanned with vegetable materials wear from 25 to 75 per cent longer than the ordinary vegetable tanned sole leathers now chiefly used. The durability of leathers was tested



SIMULATING ROAD TESTS FOR TIRES.

This device runs the road past the wheel to measure how much power is lost in tires. The design of the tire is found to affect such losses. The Bureau of Standards ascertains which design causes least loss, thus permitting very large savings in the cost of operating automobiles.

on the actual feet of policemen, postmen, soldiers, and others. Then sole leather tests in the automatic "walking machine" were compared with service durability by the volunteers who had worn the same kind of leather on the soles of their shoes. Thus were worked out laboratory tests which enable manufacturers to make accelerated tests in 24 hours equivalent to several months actual wear of shoes.

The scientific equipment of the Bureau is sometimes utilized for producing that which commercial manufacturers are not

prepared to produce. For example, the largest disk of optical glass ever made in the United States was made by the Bureau for the Perkins Observatory at Ohio Wesleyan University.



DISK OF OPTICAL GLASS MADE BY THE BUREAU OF STANDARDS.

The Bureau of Patents is called the Patent Office. At its head is the Commissioner of Patents who is responsible for granting patents and registering trade marks, prints, and labels.

A *Patent*¹ of *Invention* is an exclusive right granted by the government to make, use, and sell any new and useful art, process, machine, manufacture, or composition of matter, or any new and useful improvements thereto, or certain original living plants, for a limited period — now 17 years by Act of Congress.²

¹ A certificate issued to a patentee is called a "letter patent," meaning an open letter. (Latin: pateo, patens; French: patent.)

² The right may be assigned to another person or inherited as other property.

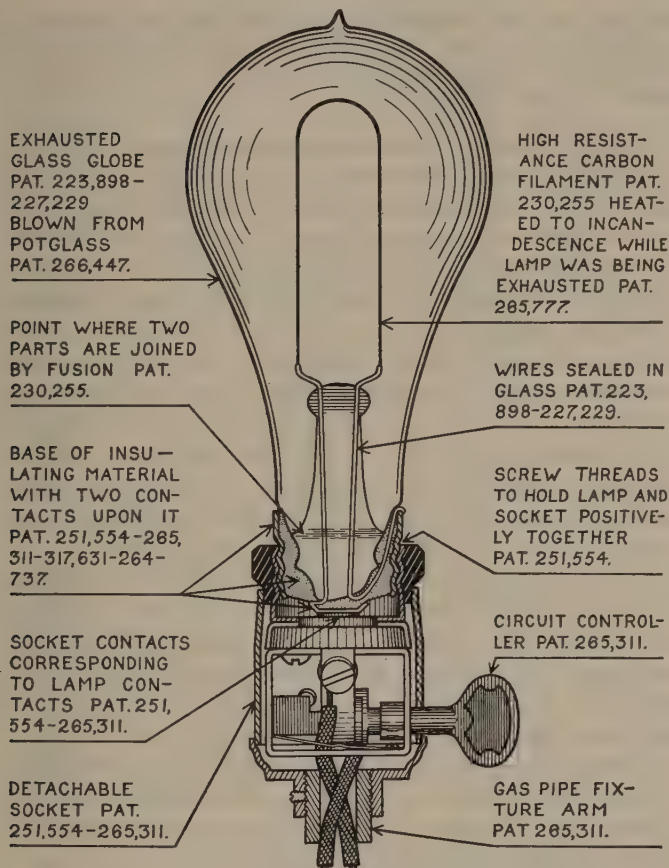
If another infringes upon a patent right the holder of the patent may apply for an injunction to restrain the infringer, or may sue him for damages.

Any American and any foreigner whose native country protects American inventions may file an application for a patent by paying \$25. An additional \$25 is paid if the patent is granted. The applicant for the patent must declare to the Commissioner of Patents that he believes himself to be the original inventor of the article for which he desires a patent; and he must submit with his application a full description or drawing of the invention, or a model if the Commissioner requests it. If the examiner approves the application¹ the patent is valid for 17 years, and it cannot be renewed except by special Act of Congress — something that rarely happens.

If by error the Patent Office grants a second patent for the same invention, the owner of the first patent can have the Federal courts declare the second patent void. In obtaining a patent an inventor is not required to employ a patent attorney; but a patent attorney is highly desirable, because without skillful preparation of the specifications and claims an application is likely to be rejected. Also a patent attorney knows how to obtain patents in all other countries that reciprocate with us. Of course a fee must be paid to each.

Among the early important patents are Eli Whitney's cotton gin (1793) and Robert Fulton's steamboat (1809). When the Wright Brothers invented the biplane airship, they specified every phase of the invention to be protected by the patent. Thomas Edison is credited with more than a thousand patents, including the incandescent light bulb, the phonograph, the carbon transmitter which made the telephone commercially possible, the motion picture camera, and the talking motion picture. The United States has granted about two million patents — nearly half as many as the rest of the world.

¹ If the patent is refused by the examiner who examines the applicant's claims an appeal may be taken to the Board of Appeals of the Patent Office, which includes the Commissioner of Patents. If this board also decides against the patent an appeal may be taken to the Court of Customs and Patent Appeals. If a very important question is involved, the Supreme Court may have the case certified to it for review and determination.



*By permission, from "Edison, His Life and Inventions,"
by Dyer and Martin (Harper and Brothers).*

NINETEEN OF EDISON'S PATENTS ON A SINGLE DEVICE.

The protection given an inventor under our patent system is an incentive to further original efforts, it is an insurance to the manufacturer who makes new machines and spends money advertising them, and it brings secret ideas to light. The more ideas you get into the Patent Office Gazette (a weekly publication giving pictures of patents

and trade marks and listing labels and prints), the more the public is stimulated to invention. It frequently happens that a patented idea which was foolish has germinated in the mind of another man and resulted in a great invention.

A Patent of Design is the exclusive right of a designer showing originality and inventive faculty to make, use, and sell any new, original, and ornamental designed article of manufacture for $3\frac{1}{2}$, 7, or 14 years, as the applicant elects. The length of the patent can be extended only by Special Act of Congress. For example, the badge of the Daughters of the American Revolution originally patented in 1891 has been renewed by Act of Congress at the end of each period of 14 years. Examples of patents of design are automobile bodies, fraternity emblems, lighting fixtures, and wall papers.

A Trade Mark is a distinctive word, emblem, symbol, or device used on goods actually sold in commerce, to identify the manufacturer or seller of the goods. Examples are Gillette razors, Kodak, Uneda, Sun-kist, Ford, and Literary Digest.

The power of Congress to protect trade marks is derived from its power to regulate interstate and foreign commerce; therefore only the marks of articles which enter interstate or foreign commerce may be registered in the United States Patent Office. A trade mark is a common law property right and the courts will grant protection against encroachment even if it is not registered; but advantages of registration are (1) evidence of ownership, (2) right to bring suit in U. S. Courts, (3) permission to register in foreign countries, and (4) protection against the importation of articles bearing the same trade mark.

A trade mark is registered for 20 years, but it may be renewed any number of times. There would be no object in an industry's spending large sums in advertising and using a distinctive trade mark if others could benefit by imitating advertising and trade marks. A trade mark may be worth a million dollars, and it may be sold; and an honorable name may be employed to protect goods as long as they are produced.

A *Label* is attached to an article of commerce. It is descriptive and often includes the trade mark with color scheme. Examples are Waterman's (Ideal) Ink, Herpicide, and Grandma's Cake. Labels are copyrighted in the Patent Office.

A *Print* used for advertising merchandise in street cars, magazines, etc., is copyrighted in the Patent Office. Artistic prints may be copyrighted in the Copyright Office.

PATENT OFFICE REGISTRATIONS

IDEA	DURATION	RENEWAL	COST
Patents of Invention	17 yrs.	{ Only by special Act of Congress	\$50
Patents of Design	3½, 7, 14 yrs.		10, 15, 30
Trade Marks	20 yrs.	20 yrs.	15
Labels	28 yrs.	28 yrs.	6
Prints	28 yrs.	28 yrs.	6

The **Radio Division** enforces the Acts of Congress requiring the inspection of the radio equipment on foreign and United States vessels prior to their departure from ports in the United States.

It refers to the Federal Radio Commission (see page 317) all applications for radio station licenses; prescribes the qualifications of radio operators; conducts examinations for operators and grants them licenses; inspects all radio-transmitting apparatus; reports to the Federal Radio Commission all violations of the radio Acts, rules, regulations or orders of the commission, or the terms of any license; designates call letters for all radio stations and publishes such call letters; and enforces the provisions of the International Radio Convention.

DEPARTMENT OF LABOR

The **Secretary of Labor** promotes the welfare of wage earners in the United States, improves their working conditions, and advances their opportunities for profitable employment. The department has a bureau of immigration, a bureau of natural-

ization, a bureau of labor statistics, a children's bureau, and a women's bureau.

The Bureau of Immigration. — The Commissioner of Immigration is charged with the administration of the immigration and exclusion laws. (See Chapter on Immigration and Naturalization.)

The Bureau of Naturalization is in the Department of Labor because it is so closely associated with the Bureau of Immigration; and the Bureau of Immigration is in this Department because immigration restriction at first grew out of the demand of labor to restrict immigration because newly arrived immigrants worked for lower wages than Americans with their higher standard of living.



RUTH BRYAN OWEN.

Because so many important questions of citizenship have arisen in connection with naturalization we have treated the subject in the separate chapter entitled Immigration and Naturalization.

Children's and Women's Bureaus. — *The Children's Bureau* was organized in 1912, and was the first government bureau to have a woman at its head. It has carried on investigations in birth rate, infant mortality, orphanage, juvenile courts, dangerous occupations, employment, diseases, and legislation affecting children.

The Women's Bureau was established in 1920. Its functions are to formulate standards and policies to promote the welfare of wage-earning women, to improve their working conditions, increase their efficiency, and advance their opportunity for profitable employment.

Proposed Department of Home and Child. — Congressman Ruth Bryan Owen has introduced a bill which would create a new department with

a secretary of home and child. It would conduct surveys and experiments in health, infancy, child care, delinquency, housing, etc. It would transfer child health from the Public Health Service, child education from the Board of Vocational Education, the Children's Bureau from the Department of Labor, training schools from the Department of Justice, the Office of Education from the Department of the Interior, and the Bureau of Home Economics from the Department of Agriculture. The proposed department would presumably have a woman at its head.

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QUESTIONS ON THE TEXT

1. When was the Department of the Interior created? What bureaus are under this department?
2. What are the duties of the General Land Office? The Geological Survey? The Reclamation Bureau? The Commissioner of Indian Affairs? The Office of Education?
3. What is the extent of our National lands? State lands? Railroad lands?
4. Explain the defects of our open range system.
5. In what States is more than half of the land held by the National government?
6. To what extent does the United States have mineral rights?
7. Explain the reasons for the oil unit production law passed by Congress in 1930-1931.

8. What was the Reclamation Act of 1902? What has been accomplished by public irrigation projects?

9. How are Indians being educated? Are they American citizens?

10. What are the duties of the Bureau of Animal Industry? Bureau of Plant Industry? Bureau of Chemistry and Soils? Bureau of Entomology? Biological Survey? Weather Bureau? Forestry Service?

11. Under what conditions is Federal aid for highways granted to the States?

12. What are the different bureaus of the Department of Commerce?

13. What questions are asked by the decennial census taker?

14. How are the results of the census tabulated? Preserved?

15. What statistics are gathered by the Census Bureau between decennial censuses?

16. What valuable services are performed by the Bureau of Standards?

17. What is a patent? What kinds are there? How do you obtain one? What does one cost? Can it be renewed? Are you sure of protection when the application is granted?

18. Under what constitutional power does Congress provide for the registration of trade marks? How long does a trade mark give protection? What are the chief advantages in registering a trade mark?

19. What is a label? A print?

20. What duties are performed by the Radio Division of the Department of Commerce?

21. What are the duties of the Children's Bureau? The Women's Bureau?

QUESTIONS FOR DISCUSSION

1. For centuries it was believed that there was no practical limit to the number of fish in the lakes and bays. To-day countries find it necessary to restrict the catching of fish and to hatch fish to replenish the lakes and bays. If there were no governments to replenish this great source of food, could private individuals be depended upon to do it? Where can you get a supply of minnows for your lake or stream?

2. The United States public lands are a greater expense to the National government than profit, so President Hoover suggested that they be given to the States in which they happen to be. Do you think the States or the National government would be most likely to conserve the natural resources? To administer them wisely? To dispose of them to private interests?

3. Would the United States public lands probably be better conserved in the hands of the government or private individuals? Under which condition would they likely grow most in value?

4. If we should absolutely forbid American oil firms operating in the same fields from pooling their interests, each would pump all the oil it could as fast as it could and gasoline might sell for 10 cents a gallon and we could sell it all over the world. Then it would be gone. If we allow them to combine, they will sell their gasoline as high as they can to meet competition from foreign countries — say 20 cents a gallon. Is it best to have 10-cent gasoline for a while and then 30-cent gasoline or 20-cent gasoline during the whole period?

5. Oil interests want a protective tariff on oil to cut off foreign oil competition. What effect would such a tariff have on the price of oil in the United States? On the conservation of oil in the United States?

6. Does reclamation of arid lands increase or decrease the value of unfertile lands which are not irrigated? Increase or decrease the output of agricultural products per man? Increase or decrease national wealth? Should the government encourage reclamation?

7. Could you profitably irrigate your farm, orchard, or garden?

8. If you desired to construct an electric power plant on a river, how would you learn how much power you could produce each month?

9. Why can insurance companies determine a fair rate for insuring fair weather for a State fair or some other enterprise dependent upon clear weather?

10. Is it proper for people living in cities or in populous States to contribute taxes to aid in road-building in the country or in less populous States?

11. Is the United States Census worth its cost?

12. Is the Bureau of Standards or the Office of Education the more important as a Federal function?

13. In the Constitutional Convention James Madison insisted that the National government be given the right to grant patents to inventors. Explain what a chaotic condition would prevail in the United States if patents were granted only by the forty-eight States.

14. A firm may buy a patent for the mere purpose of suppressing the new idea and keeping his factory running on old patterns. Is this harmful to the public? Would you favor a law providing that any patent not put to use should be liable to forfeiture?

15. Should patents be open to development by any manufacturer on the payment of a fair royalty to the owner? Would this right encourage or discourage the prompt production of a new commodity?

16. In many foreign countries an American patentee must continuously manufacture in that country or lose his patent rights. The consequence is that our inventors and manufacturers, in order to protect their inventions, have been driven to the establishment of a large number of factories abroad, whereas foreign patentees can use their patents in the United States actually to prevent manufacture here. What effect does protective tariff have upon this situation?

17. About two million patents have been granted by the United States. They are now being granted at the rate of about a thousand a week, of which very few are secured by women. Why are few patents obtained by women? Why is the number of patents granted to women increasing?

18. The following values have been claimed at different times for the following trade marks: Gold Dust Twins and Fairy Soap Girl, \$10,000,000; Mennen's Talcum Powder, \$10,000,000; Quaker Oats, \$9,000,000; "Royal" for baking powder, \$8,000,000. Which of the above values are partly due to cleverly devised trade marks? Which to advertising? Which to a consistently honest product over a long period?

19. No one can tack the name "Amos 'n' Andy" on to a work-shirt. Neither can it be used for any other purpose. It belongs to the firm of Charles J. Correll and Freeman F. Gosden, whose skits long have been on the radio. The patent office ruled that Correll and Gosden are sole owners of the title. Why?

(omit)

CHAPTER XIII

BOARDS AND COMMISSIONS

Why Boards and Commissions Are Created.—In addition to the ten administrative departments, whose heads are members of the President's cabinet, various independent boards and commissions have been created to relieve the pressure of business on the President and Congress. Boards and commissions have been created instead of additional administrative departments (1) because the duties to be performed require experts whose terms of office should not depend upon the political fortune of the President, and (2) because their duties require the deliberation of a board rather than the opinion of one individual.¹

The following are the more important of the increasing Federal boards and commissions.

Commissioners for the District of Columbia.—The Constitution of the United States gives Congress power to exercise exclusive legislation over the District of Columbia in all cases whatsoever. Previous to 1874 Congress permitted the District to be governed by elective officials, and elections were held there regularly. Elections became so corrupt—a fact partly due to the influx of inexperienced voters after the Civil War—that Congress abolished the council form of government and provided for its government by Congress and commissioners.²

¹ President Hoover said: "Quasi-legislative and quasi-judicial and broadly advisory functions should be removed from individual authority and assigned to boards and commissions."

² Since 1874 the inhabitants of the District of Columbia have been excluded from all suffrage, not even being permitted to vote for presidential

Since 1874 the District has been administered by three commissioners, two of whom are appointed for terms of three years by the President and Senate of the United States, and one engineer detailed by the President from the United States army to serve for an indefinite period. Other officers are likewise appointed by the President. These three commissioners administer the municipal departments, such as schools, police, and public health. They recommend needed legislation, but Congress is the only legislative body of the District.

All bills relating to the governing of the District are considered by committees, usually by the House Committee and the Senate Committee on the District of Columbia, or by the House Committee and the Senate Committee on Appropriations. It is at public hearings of these committees that the people of the District make their wishes known. Congress used to appropriate 50% of the expenses of the District from the United States Treasury, then 40%, but now a lump sum amounting to about 20%. This appropriation is made because the government owns so much tax exempt property and because it wants a beautiful city as a setting for this property.

The Civil Service. — The Constitution of the United States provides that Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments. (See page 185.) Congress vested the appointment of most inferior officers in the President or in the heads of departments. For half a century following Andrew Jackson's administration the President and heads of departments appointed members of their own political parties, giving little consideration to qualifications, and turning

electors. However, a large proportion of the population consists of government employees many of whom may return to their home States to vote.

The United States Constitution provides that each *State* shall choose as many presidential electors as it has senators and representatives in Congress. The District of Columbia has no congressmen, therefore it would apparently be unconstitutional for Congress to grant presidential suffrage to the District of Columbia.



Courtesy of Woodward and Lothrop.

DRAWING FOR THE DISTRICT OF COLUMBIA ADMINISTRATIVE BUILDING.

A number of blocks along Pennsylvania Avenue are to be razed to make room for a municipal group of buildings. This one is to contain offices for the three commissioners of the District of Columbia, various other offices, and an auditorium.

out of office those of the opposing party. This practice was known as the "spoils system."¹

The Civil Service Act of 1883, subsequent laws of Congress, and executive orders of the President have gradually increased the number of persons securing permanent positions by competitive examinations, until at present about 460,000 employees of the government secure their appointments in this manner. President Taft set the precedent of appointing fourth-class postmasters according to civil service examinations. Congress refused President Wilson's request that all postmasters be thus selected. Wilson then set the precedent of appointing as postmasters only those who had passed an examination; but the Senate refuses to ratify any not belonging to the party in power.

The President can do this because the right to make appointments belongs either to him or else to the heads of departments, whom he can remove; hence they are practically compelled to make appointments according to civil service examinations if the President so orders. If a President should be opposed to the civil service plan, he could revoke the orders of former Presidents and apply the spoils system to most of the civil service positions.

Even employees who have entered the government service by competitive examinations may be dismissed if unworthy. The Retirement Act of 1926 permits some to retire at the age of 62, some at 65, and some at 70, or sooner if totally disabled. The annual pension is a percentage of one's salary, and varies according to length of service. The minimum annual pension is \$180, the maximum, \$1000. The employee contributes 3.5 per cent of his salary to the pension fund, which is returned to him with interest if he leaves the service before the age of retirement.

The Civil Service Commission, which was created in 1883, consists of three commissioners appointed by the President and Senate, only two of whom may be of the same political

¹ In 1832 when President Jackson was criticized for removing political opponents from office, William L. Marcy in defending the action of the President said, "to the victors belong the spoils of the enemy."

party. The duty of this commission is to prepare examination questions for approximately 1700 kinds of positions, and to have examinations conducted at convenient places throughout the United States by postmasters and other Federal employees. The commission may refuse to examine or certify persons mentally unfit; or physically unfit (though consideration must be shown vocationally trained war veterans); or immoral, criminal, or dishonest persons; or drunkards; or those who practice any deception in connection with examinations.

When a Federal official has a vacancy to be filled, the commission sends him the names of the three at the head of the appropriate register of eligibles. Disabled military veterans have preference over all others, and veterans not disabled have five points added to their earned rating. An effort is made to distribute the appointments for offices in Washington City among the States in proportion to population. Occasionally, if the appointing officer thinks the persons certified are physically, mentally, or morally unfit, the commission will certify additional names. An examining or appointing officer should give no weight to the recommendation of a congressman except as to the character or residence of the applicant.

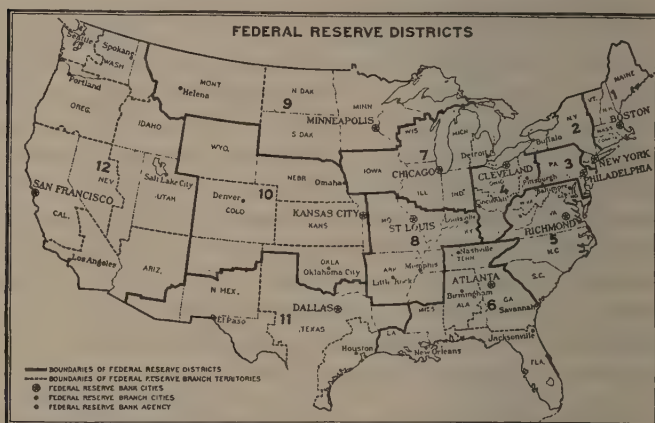
A period of probation always precedes final appointment. No appointee may be required to contribute to a political fund or to perform political services. The President of the United States may amend or make exceptions to the Civil Service Rules.

Federal Banks and Banking Boards. — *National Banks.* — With the approval of the Comptroller of the Currency any five or more persons may secure from him a charter of incorporation for a National bank, if they can raise an amount of capital varying from \$25,000 in places of less than 3000 inhabitants to \$200,000 in cities of more than 50,000 inhabitants.

These banks receive deposits from individuals and corporations and lend money to individuals and corporations. They must be examined by a United States examiner at least twice a

year, and must make reports to the Comptroller of the Currency at least three times a year — whenever called for.

In 1927 Congress extended National bank charters for an indefinite period. It now also permits these banks to establish branches in their home cities if such cities have 25,000 inhabitants or over, and also in foreign countries; to make loans on city as well as on farm real estate for five years; and to lend for ten months on warehouse receipts for non-perishable staples.



Every National bank is a member of the Federal Reserve bank of the district in which it is located, and is required to subscribe 6% of its capital and surplus to Federal Reserve bank stock.¹

Federal Reserve Banks. — The United States is divided into twelve Federal Reserve districts, and there is one Federal Reserve bank located in the Federal Reserve city of each district. These banks were created by Congress in 1913 to put more money into circulation when honest business men need it, and thus prevent “hard times” caused by a lack of money to carry on the business

¹ State banks and trust companies may become members of a Federal Reserve bank if they conform to most of the regulations governing National banks.

of the country. The Federal Reserve Board authorizes the issue of Federal Reserve notes ¹ to the Federal Reserve banks, accepting as security certain notes, drafts, etc., which the Federal Reserve banks have rediscounted for the member banks. As additional security, the Federal Reserve banks must set aside an



BASEMENT SCENE IN THE NEW YORK FEDERAL RESERVE BANK.

This bank has resources of more than \$1,500,000,000. Two tons of coins are here shown at the door of one of the 22 coin counting rooms.

amount of gold equal to forty per cent of the Federal Reserve notes issued.

A Federal Reserve bank must have at least \$4,000,000 capital, and this capital must be subscribed by all member banks. Each reserve bank has a board of nine directors, of whom six are elected by the member banks, each bank having one vote, and three by the Federal Reserve Board. The officers of each reserve bank are chosen by the directors thereof.

¹ See page 231.

The board of directors of each Federal Reserve bank elects from its own district one member of the Federal Advisory Council, a body composed of one member from each reserve bank, which meets in Washington at least four times a year to consult, advise, and question the Federal Reserve Board in regard to the business of the reserve banking system.

At the head of our Federal Reserve banking system is the Federal Reserve Board. This board was created in 1913 by the same Act of Congress which provided for the Federal Reserve banks. It is composed of eight members, six of whom are appointed by the President and Senate for a term of ten years. The Secretary of the Treasury and the Comptroller of the Currency are *ex-officio* members, the Secretary of the Treasury being *ex-officio* chairman of the board. The salary for each of the appointed members is \$12,000 per annum and expenses, and the Comptroller of the Currency receives \$7000 in addition to his salary as Comptroller.

The Federal Reserve Board has general supervision of our Federal Reserve banking system. For instance, it may examine any bank in the system; it regulates, through the Comptroller of the Currency, the issue and retirement of reserve notes, and determines the rate of interest which the member banks must pay the Federal Reserve banks for these notes; it suspends or removes Federal Reserve bank officers, taking possession of the bank if necessary; and it publishes a weekly statement of the reserve banks. This board has its offices in Washington.

Federal Land banks were created by Congress in 1916. The Federal Reserve system is of great service to the commercial class, who constantly need short term loans. The farmer often needs a long term mortgage, and the Federal Land banks system gives him an opportunity to secure money on his most available asset — his land — just as the merchant or manufacturer is able through the Federal Reserve system to obtain money for short periods on paper based upon commercial transactions.

The United States is divided into twelve land bank districts¹ with a Federal Land bank located in each. These twelve banks are supervised by the Federal Farm Loan Board consisting of six members appointed by the President and Senate for terms of eight years, and the Secretary of the Treasury, who is a member and *ex-officio* chairman of the board. Each of the members except the chairman receives an annual salary of \$10,000.

These Federal Land banks obtain money principally from the sale of bonds which bear 5 per cent or less interest, and lend it to farmers at not exceeding 6 per cent. They have been able to borrow as low as 4 per cent because the twelve banks are jointly liable for the debts of each. Hence they have been able to lend as low as 5 per cent.

Loans are made only for the purchase of land, for its improvement, or for purchase of live-stock, equipment, fertilizers, or to provide buildings on a farm, or to pay off a debt incurred before January 1, 1922. A loan must not exceed 50 per cent of the value of the land plus 20 per cent that of the buildings; and not less than \$100 nor more than \$25,000. No mortgage shall run for more than 40 years, or less than five except by special arrangement. The loan is paid by annual or semi-annual installments.

Ten or more owners who cultivate may form a national farm loan association, and through this association borrow money from a Land Bank. Each borrower must buy stock in the bank equal to 5 per cent of his loan, and he is liable for money borrowed by any other member of the association up to 10 per cent of his own loan.

¹ 1. Me., N. H., Vt., Mass., R. I., Conn., N. Y., N. J. (Springfield). 2. Pa., Del., Md., Va., W. Va., D. C. (Baltimore). 3. N. C., S. C., Ga., Fla. (Columbia). 4. Tenn., Ky., Ind., O. (Louisville). 5. Ala., Miss., La. (N. Orleans). 6. Ill., Mo., Ark. (St. Louis). 7. Mich., Minn., Wis., N. D. (St. Paul). 8. Neb., S. D., Wy., Ia. (Omaha). 9. Okla., Kan., Col., N. M. (Wichita). 10. Tex. (Houston). 11. Cal., Nev., Utah, Ariz. (Berkeley). 12. Wash., Ore., Mont., Idaho (Spokane).

Joint Stock Banks (now about 50) have been created by and are under the supervision of the Federal Farm Loan Board. They issue bonds, for which the individual bank only is liable, and lend money directly to farmers. They charge higher interest than the Federal Land banks, but the farmer does not have to buy stock and is liable only for his own debt.

Federal Intermediate Credit Banks. — Twelve Federal Intermediate Credit banks were created by the Agricultural Credit Act of 1923. These are located in the same cities as the Federal Land banks and have the same officers and directors.

The powers of these Intermediate Credit banks include the discount and purchase of agricultural and live-stock paper for and from banks, live-stock loan companies, agricultural credit corporations, other Federal Intermediate Credit banks, and various classes of farmers' coöperative associations. They may also make loans direct to such coöperative associations when the loans are secured by warehouse receipts or by mortgages on live stock. The Secretary of the Treasury is authorized to subscribe to not exceeding \$5,000,000 worth of capital stock in each of these banks.

The loans, advances, and discounts of Intermediate Credit banks must mature in a period of not less than six months or more than three years. Money had already been made available for farmers by the Federal Reserve system for a period of six months or less and by the Federal Land banks system for a period of five years or more; but the purpose of the Intermediate Credit banks is to give credit for the intermediate period between six months and five years to enable the farmer to hold his crops and sell them when prices are high.

The Interstate Commerce Commission is perhaps the most important of all the boards and commissions; but we have treated it in Chapter VI in connection with the interstate commerce powers of Congress.

The Federal Trade Commission. — In 1914 Congress created a Federal Trade Commission composed of five commissioners,

who are appointed by the President and Senate. Not more than three of the commissioners may be of the same political party. The salary of each commissioner is \$10,000 a year.

The powers of the commission are twofold. First, it is empowered to prevent persons, partnerships, or corporations, except banks and common carriers (*e.g.*, railroads),¹ from using unfair methods of competition in commerce among the States or with foreign nations. In performing this duty the commission has access to the books and documents of a commercial firm whenever there is reason to believe that such a concern is using unfair methods of competition. If any irregularity is discovered, the commission may order the concern to cease using such unfair methods.

The second power of the commission is to gather and compile information from such commercial corporations as are under its control and require them to furnish the commission with reports of their transactions. It makes special investigations for the Attorney-General, the President, or Congress, concerning violations of the anti-trust laws; it investigates trade conditions in and with foreign countries; and it submits to Congress recommendations for additional legislation.

The Clayton Anti-Trust Act. — The Federal Trade Commission is expressly given jurisdiction over violations of several sections of the Clayton Anti-Trust Act, which prohibit:

(1) Certain discriminations in prices between different purchasers of commodities where the effect of such discrimination may be to lessen competition substantially or tend to create a monopoly in any line of commerce.

(2) In certain cases, so-called "tying contracts," or contracts whereby, as a condition of sale or lease, the seller or lessor exacts from the purchaser or lessee an agreement that he shall not use or deal in the goods or other commodities of a competitor of the

¹ Federal banks are under the control of the Federal Reserve Board and the Comptroller of the Currency. Common carriers are under the control of the Interstate Commerce Commission.

lessor or seller, where the effect of such agreement may be to lessen competition substantially or tend to create a monopoly in any line of commerce.

(3) In certain cases, so-called "holding companies," or the ownership by one company of the stock of another, where the effect may be to lessen competition substantially, to restrain commerce, or tend to create a monopoly.

(4) So-called "interlocking directorates" in cases where one person shall at the same time be a director in any two or more corporations engaged in interstate or foreign commerce (other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce), if such corporations are or have been competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the anti-trust laws. (See page 146.)

The Federal Farm Board. — In 1929 Congress created the Federal Farm Board to promote the effective merchandising of agricultural products in interstate and foreign commerce. The board consists of eight members appointed by the President and Senate for a term of six years. Each member receives an annual salary of \$12,000 plus expenses.

For the original board President Hoover appointed men from the "new patriotic" class. For instance, Alexander Legge, President of the International Harvester Company, relinquished a salary of \$100,000 a year to become Chairman of the Farm Board at a salary of \$12,000. When the board was functioning normally, Mr. Legge resigned.

The duties of the board are :

(1) To encourage the organization and development of co-operative associations owned and controlled by the producers.

(2) To investigate and give advice regarding crop supply and demand, the prevention of overproduction, the expanding of agricultural markets, new uses for products and by-products, and transportation conditions.

(3) To administer a revolving fund of half a billion dollars appropriated by Congress, and to make loans at a rate of interest not to exceed 4% for the following purposes :

- a.* To aid coöperative associations in preparing, handling, storing, processing, and selling agricultural products.
- b.* To aid stabilization corporations created to act as market agencies for coöperative associations of a commodity.¹

(4) To insure coöperative associations against loss through price decline in the products handled by the association and produced by its members, but only at the discretion of the board.

The United States Shipping Board was created by Congress in 1916 and enlarged in 1920. It consists of seven commissioners appointed by the President and Senate for terms of six years, and not more than one may be appointed from the same region. Each receives a salary of \$12,000 a year.

The duties of the Board, enlarged by the Act of 1928, are :

(1) To control cargo and passenger ships acquired during the World War.

(2) To have others built, of a type that can easily be converted into naval auxiliaries, when authorized by Congress.

(3) To make loans from a revolving fund of \$250,000,000 to Americans who will build such ships and engage in United States trade. No loan may be made for more than three fourths of the cost of the vessel, nor for a period exceeding 20 years.

(4) To sell its vessels on easy terms to Americans who will operate them in the American foreign trade.

¹ This aid is granted only upon the request of the advisory committee for the commodity to be marketed. The board is authorized to create an advisory committee for any important product, such as cotton, and to call the committee together for advice at least twice a year.



THE *LEVIATHAN*.

This vessel carried 10,000 soldiers to France on a single trip.



VIEW OF A LOBBY ON THE *LEVIATHAN*.

The *Leviathan* was sold by the Shipping Board to a firm which agreed to operate it under the American flag at least five years.

(5) To endeavor to operate lines that can carry the American mail until private owners of American built vessels can be encouraged to operate private lines to all foreign ports.

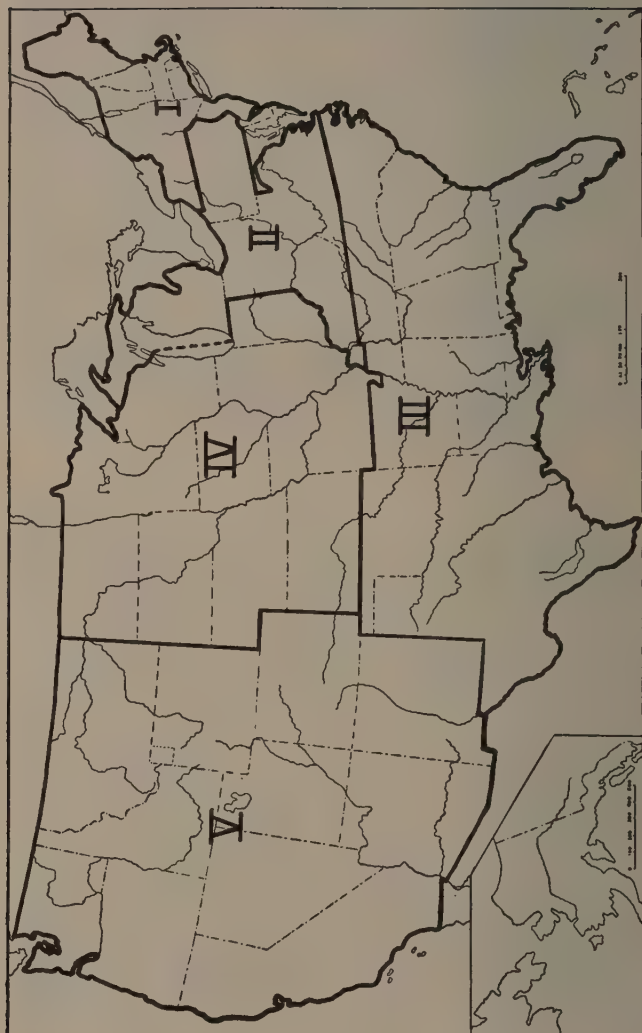
(6) To investigate water terminals, advise with communities regarding harbor, river, and port improvements, and bring to the attention of the Interstate Commerce Commission any detrimental rates or regulations of railroads that are injurious to water transportation.

(7) To report to the Secretary of Commerce navigation companies that give rebates or unjustly discriminate among shippers or use a "fighting ship" (ship run at a loss to destroy a competitor). The Secretary then refuses such company the right of entry for its ships until the evil is corrected.

The United States Tariff Commission. — In 1916 the United States Tariff Commission was established by Congress. It is composed of six members, not more than three of whom shall be of the same political party, appointed by the President and Senate for terms of six years. Each member receives a salary of \$11,000 per annum.

The commission is given wide powers to investigate the administration and financial and industrial effects of the customs laws of the United States, various tariff relations between the United States and foreign countries, and international tariff agreements in Europe. This information is collected for the benefit of the President, the Ways and Means Committee of the House, and the Finance Committee of the Senate in order that Congress may legislate more wisely upon the tariff problem, and thus remove it as far as possible from politics.

Federal Radio Commission. — In 1927 there were over 700 radio stations in the United States — twice as many as can operate at one time without serious interference. Some of these stations were described as little better than "electrostatic katydid." As hundreds of others were preparing to get on the air, government regulation was inevitable; and the Radio Act



THE FIVE RADIO ZONES.

The Federal Radio Commission has assigned approximately the same facilities to each of the five zones.

passed by Congress in 1927, and amended in 1929, gives control of interstate ¹ and foreign ² radio transmissions to the Federal Radio Commission.

This commission consists of five members appointed by the President and Senate, and one of the five commissioners is appointed from each of the five radio zones into which the country is divided. Their term of office is six years and their salary \$10,000 a year.

The commission grants licenses, but only to United States citizens. Broadcasting stations are licensed for periods not exceeding three years and other classes of stations for periods not exceeding five years. Renewals may be granted for like periods ; or a license may be revoked for proper cause. The commission also classifies stations, prescribes the nature of service, assigns wave lengths, determines the power, the time during which the station may operate, and the kind of apparatus used. It classifies and licenses broadcasting operators, and makes regulations to prevent interference between stations.

As directed by Congress in 1928, the commission apportioned broadcasting licenses, wave lengths, periods of time for operation, and station power equally among five zones ; and to each State within a zone according to population.

When paid matter is broadcast it must be announced as such or the name of the sender given. If a station permits a candidate for public office to broadcast, it must afford opposing candidates equal opportunity at the same rates. In broadcasting, the use of obscene, indecent, or profane language is forbidden by Act of Congress.

The Federal Power Commission, as reorganized in 1930, is composed of five commissioners appointed by the President with

¹ Any station that interferes with interstate communications comes under Federal control.

² Control over foreign transmissions applies only to outgoing communications. If objectionable communications are broadcast into the United States, diplomatic protest through the State Department would be the proper procedure.

the consent of the Senate. They are appointed for the term of five years and receive a salary of \$10,000 a year.

The commission exercises administrative control over all power sites on navigable streams and on public lands of the United States respecting the location, design, construction, maintenance, and operation of power projects. One desiring to develop power on navigable streams or on public lands must obtain a license from this commission.

The commission is authorized to require uniform accounting by the power projects under its jurisdiction. In this way it can inform the public as to the profits earned by power companies.

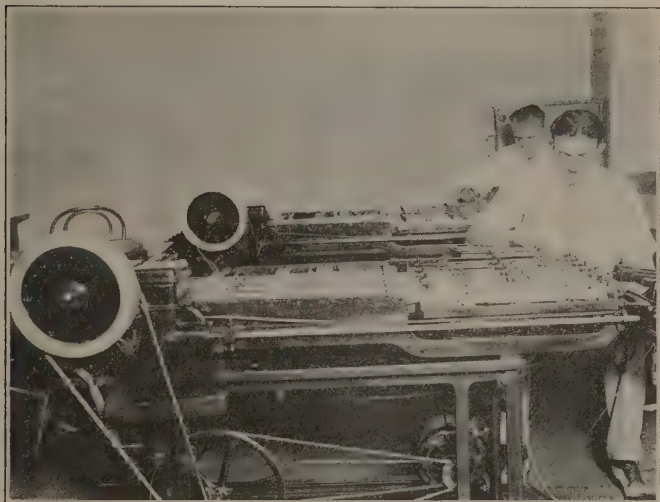
The commission is also directed to investigate power resources. In performing this duty it coöperates with State and National governments — *e.g.*, St. Lawrence projects or Rio Grande projects necessitate coöperation with Canada and Mexico.

Veterans' Administration. — In 1930 the establishment of the Veterans' Administration was authorized by an Act of Congress, which further authorized the President by executive order to consolidate all government agencies responsible for the relief of former members of the naval and military forces. Under this authority the President created this independent establishment by consolidating therein the Bureau of Pensions (formerly in the Interior Department), the Bureau of National Homes (formerly the National Home for Disabled Volunteer Soldiers in the War Department), and the United States Veterans' Bureau (already an independent establishment). These three branches are to be coördinated, and perhaps merged; but at present they operate under three directors who are responsible to the Administrator of Veterans' Affairs.

The Bureau of Pensions has charge of the granting of pensions authorized by Congress on account of military or naval service prior to 1917 and after 1921. This Bureau also administers the pension fund for Federal civil employees.

Civil War pensions are known as service pensions, and they are paid to millionaires as well as to the needy. More than half of

the Civil War pensioners are women. Until 1905 when Congress passed a law declaring that no pension would be paid to Civil War widows whose marriage occurred after that date, every old soldiers' home was infested by "pension gold diggers." In the case of Spanish War widows, the date of limitation as to marriage



CHECK SIGNING MACHINES.

World Wide Photos.

These machines are used in the Veterans' Administration. You have read of printing paper money so fast in some countries that it becomes worthless. We trust these checks will always be good.

is September 1, 1922; and for the War of 1812 widows, it is 1878. There are still several widow pensioners of the War of 1812, and the youngest one was born forty-seven years after the war.¹

The Bureau of National Homes operates about a dozen homes for persons who served in the armed forces of the government and received an honorable discharge and are disabled by disease

¹ Most States now have pensions for widows with dependent children, and many States now provide old-age pensions. See page 634.

or wound to such an extent as to incapacitate them for earning a living.

The United States Veterans' Bureau is responsible for relief to veterans of the World War and their dependents as provided by Acts of Congress. These Acts include benefits of government insurance, compensation for disability or death directly resulting from military service, adjusted compensation, medical

and hospital relief, and disability allowance for World War veterans 25 per cent or more permanently disabled from causes not traceable to military service.

Every State, except Delaware, has a regional office under this Bureau. This Bureau is responsible for the operation of about 50 hospitals for the veterans of the World War and other wars.

The Library of Congress is not merely for the use of Congressmen. With few exceptions, such as the Taft, Wilson, and Roosevelt papers (which may be examined with permission



LIBRARY OF CONGRESS.

This shows a stairway of the Library, which has one of the most beautiful interiors of any building in America.

of the families), every book and document in the Library is at the disposal of all those who are interested enough to come to the Library to use them. Over a hundred small study rooms have been equipped for the use of research workers, investigators, and scholars. These study rooms are assigned on application to the superintendent of the reading room. Those engaged in extensive

research on special subjects are given preference in the assignment of these rooms, but tables are placed in the book stacks and in the alcoves, so that those who have serious work to do can do it with convenience to themselves and without annoyance to others. The Library maintains a staff of experienced consultants, whose services may be had for the asking by investigators and those engaged in research.¹

Other Institutions Administered by Executive Officials. — There are many other institutions and boards administered independently of the ten administrative departments besides those treated in this chapter. The following are among them: Government Printing Office, Smithsonian Institution, Federal Board of Vocational Education (see pages 621, 623), and United States Board of Tax Appeals.

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¹ Subordinate to the Librarian of Congress is the Register of Copyrights, whose office is in the Library of Congress building in Washington. When a book is published the notice of copyright should be printed on the title page or the page following. Promptly after publication two copies of the best edition must be sent to the register with an application for registration and a money order for two dollars payable to the Register of Copyrights. Application forms will be furnished upon request. For a work of art a photograph is sent. For photographs the fee is only one dollar if a certificate of registration is not desired. For anything else the fee is one dollar. Only one copy of lectures and dramatic or musical compositions not to be published need be sent. For an unpublished manuscript the fee is only one dollar.

QUESTIONS ON THE TEXT

1. Why have boards and commissions been created independent of administrative departments?
2. By whom is the District of Columbia administered? Who legislates for the District? Do the inhabitants of the District have any right of suffrage?
3. About how many employees of the United States secure their employment through competitive examinations?
4. What is the *spoils system*?
5. When was the Civil Service Commission created? Composed of how many members? By whom appointed?
6. What are the duties of the Civil Service Commission? Through what local agents do they conduct examinations?
7. What are the more important Civil Service rules?
8. May civil service employees be dismissed?
9. How many Federal Reserve banks are there? Where is the one nearest you? *Richmond*
10. When Federal Reserve banks lend money to member banks, what security must be given?
11. What banks are members of a Federal Reserve bank? How may a bank become a member?
12. How many Federal Land banks are there? How do they differ from the Federal Reserve banks? For what periods do they make loans?
13. Explain why the Federal Intermediate Credits banks were created.
14. What is the Federal Trade Commission? Of how many members is it composed? By whom are they appointed? What are the duties of the Commission? What restrictions are provided by the Clayton Act?
15. What are the duties of the Federal Farm Board?
16. What are the duties of the United States Shipping Board?
17. What are the duties of the United States Tariff Commission?
18. What are the duties of the Federal Radio Commission?
19. What are the duties of the Federal Power Commission?
20. The Veterans' Administration is composed of what three bureaus? What is the duty of each bureau?
21. How may a copyright be obtained?

QUESTIONS FOR DISCUSSION

1. To the canonical "departments" of government — legislative, executive, and judicial — we have added a fourth, the administrative tribunal, which combines the functions of all three. Reluctantly

Congress is abdicating to boards and commissions more and more of its original functions. Does this trend towards boards and commissions show that our separation-of-power idea was a mistake? Does it grow out of mechanical inventions and complex society? Or is it partly due to both of these facts? List the boards and commissions with dates and thus observe when they were created?

2. The District of Columbia is perhaps the only civilized capital in the world whose inhabitants have absolutely no rights of suffrage, yet Washington is well governed. Do you consider that Congress acted wisely in depriving the inhabitants of suffrage?

3. In our Civil Service should promotion be based upon length of service, efficiency of service, or examination?

4. How much money would be necessary to establish a member National bank in your town or city?

5. Of what Federal Reserve bank are the National banks in your town members?

6. How will the Federal Reserve Act of 1913 prevent "panics" like that of 1907, which resulted from a scarcity or rather hoarding of money?

7. During "hard times" a merchant in a small city goes to the National Bank to borrow money by giving his note. Was he more likely to get this money before or after the Federal Reserve system was established? Why?

8. There is a feeling by those who deal in stocks that the raising of the rediscount rate or the lowering of the rediscount rate by the Federal Reserve Board will cause a rise or fall in the prices of stocks. If this is true, what effect should lowering the rediscount rate have on the price of stocks?

9. If a man borrows money through the Federal Land banks he pays about 5 per cent interest, and by adding 1 per cent each year and paying 6 per cent the debt will be wiped out in approximately 33 years. Suppose he had borrowed his money from an individual at 6 per cent, what would be the status of the debt at the end of 33 years if he should pay the same amount each year that he pays the Federal Land banks?

10. Among the numerous methods of competition thus far condemned by the Federal Trade Commission are the following:

Misbranding fabrics and other commodities respecting the materials of which they are composed, their quality, origin, or source.

The payment of bonuses by manufacturers to salesmen of jobbers and retailers to procure their special services in selling their goods.

The use of false or misleading advertisements.

Passing off products of one manufacturer for those of another by imitation of products.

Selling rebuilt machines as new.

Making false statements regarding competitors' products.

Selling goods at cost to embarrass small competitors.

Bidding up price of raw products to a point where business is unprofitable for the purpose of driving out financially weak competitors.

Explain why each of these methods was forbidden. Do you think they should be forbidden by every State for local business firms as well as those engaged in interstate commerce?

11. Two years after the Federal Farm Board was created agricultural prices dropped lower than they had been for many years. What fundamental economic law caused this slump in prices? Was this drop in prices any reflection upon this board?

12. The United States Shipping Board lost money in operating government-owned ships. To keep them running in private hands, the government has to assist them with loans and mail contracts which result in a loss to the government. Without government aid Americans can hardly compete in foreign shipping because of higher prices in the United States. Should we simply allow other nationalities to carry all of our foreign trade?

13. If a foreign country discriminates against the commerce of the United States, the President may increase the tariff on their commodities or even exclude them. Or the President may increase or decrease tariff duties for all countries if the cost of producing in competing countries adversely affects producers or consumers in this country. For instance, the discovery in North Dakota of a head of wheat that resisted frost enabled Canada to push its wheat belt 700 miles north in 7 years. The President increased the duty on wheat from 30 to 42 cents a bushel. Do you favor this power of the President? What commission advises him?

14. The Radio Commission can grant licenses for high power stations with favored wave lengths to a religious organization, to a city government, to a State University, to a news corporation, or to a corporation that reports prize fights and jazz music and receives \$1000 for a fifteen-minute advertisement. If the commission attempts to cancel a license, the friends of that station flood the commission with petitions, and Congressmen, who could abolish the commission, must fight for the stations of their districts. Therefore, if the licensing is not very carefully handled it may become a national issue. If you were on the commission, how would you apportion the stations or time among the above interests?

15. The United States District Court of Oregon sentenced an anti-chain store radio broadcaster to serve six months in jail for using profane and indecent language over the radio.

A Senator from Washington State demanded, from the floor of the United States Senate, the prosecution of one using profane language from a broadcasting station in Louisiana. Why was a senator from distant Washington concerned about the enforcement of this Federal law against profanity? Should a young man use profanity because it is the easiest way to show emphasis and temper, or should he develop a vocabulary which will enable him to express himself emphatically within the law?

16. Should the United States government develop, own, and operate a great super-power system throughout the United States? Should it own sites and build dams and sell the water, having the plant operated by the highest bidder, as is done at the Hoover Dam? Should it merely regulate dams on navigable streams and require publicity as to the profits earned? Should it prescribe power rates for all interstate lines? (This is now handled principally by the States.) Or should it keep hands off the power problem? What does it now do through the Federal Power Commission?

17. The Library of Congress is inaccessible for citizens of distant States. Should the Federal government give conditionally to one great library in each State? Should it give conditional aid to city libraries? To school libraries? On what conditions might Federal aid be given?

CHAPTER XIV

THE JUDICIAL DEPARTMENT

Monica

The System of Federal Courts. — The Constitution declares that the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish. Congress has established, and later abolished, various inferior courts, but at present the following Federal courts exist:

Regular Courts

One Supreme Court

(1)

Ten Circuit Courts of Appeals

(10)

One hundred and forty-five District Courts

145

(85 districts)

Special Courts

One Court of Claims

(1)

One Customs Court

(1)

One Court of Customs and Patent Appeals

(1)

The Jurisdiction¹ of Federal Courts. — Cases are tried by Federal courts either because of the character of the subject matter of the suit or because of the character of the parties to the suit. Depending upon the subject matter of the suit, the following cases may be tried in Federal courts: (1) cases in law or equity² arising under the Constitution or statutes of the United States, or treaties made under their authority; (2) cases of admiralty and maritime³ jurisdiction. Depending upon the parties to the suit, the following cases may be tried in Federal

¹ Jurisdiction means the legal right to hear and determine cases. A court is said to have jurisdiction over those cases which it has authority to try.

² For meaning of "equity," see page 478, note.

³ For meaning of "admiralty and maritime," see U. S. Constitution, Art. III, Sec. 2, note.

courts : (1) cases affecting ambassadors, other public ministers, and consuls ; (2) controversies to which the United States is a party ; (3) controversies between two or more States ; (4) controversies between a State and citizens of another State ;¹ (5) controversies between citizens of different States ; (6) controversies between a State, or citizens thereof, and foreign states, citizens, or subjects.

Regular Courts. — In order to show the proper relation of the different regular courts and how cases may be appealed from the lowest to the highest, the District Courts will be discussed first, the Circuit Courts of Appeals second, and third the Supreme Court, which is the highest court, or the court of final jurisdiction.

The District Courts. — The lowest regular Federal courts are known as District Courts. There are eighty-five districts in forty-eight States, each State forming at least one district.² There is at least one judge for each district, but many important districts require more than one judge each.³ There are one hundred and forty-five judges for eighty-five districts ; and inasmuch as district court cases are usually conducted by a single judge,⁴

¹ In 1793, in the case of *Chisholm vs. Georgia*, the Supreme Court construed this passage to mean that an individual may sue a State without the consent of the latter. The States had not so understood this clause, and immediately the eleventh amendment was added to the Constitution, which provides that a State may not be sued in a Federal court by citizens of another State. However, a State may still bring suit in a Federal court against a citizen of another State or against an alien.

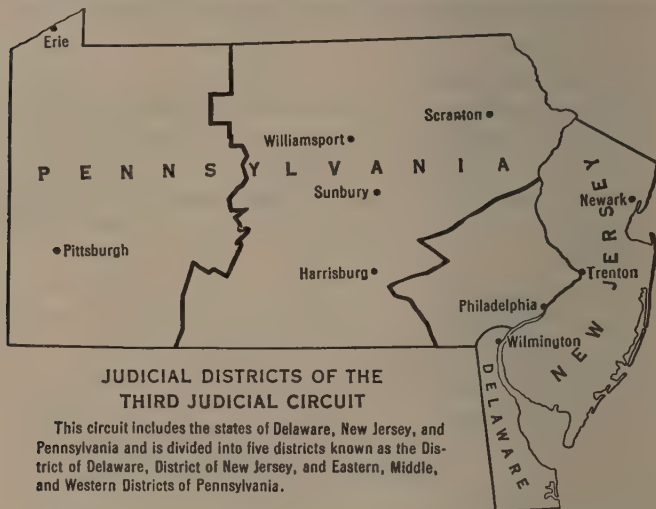
² Pennsylvania, for example, forms three districts — Eastern, Middle, and Western. The three judges of the Eastern District hold court in Philadelphia ; the one of the Middle District holds court at Harrisburg, Lewisburg, Williamsport, and Scranton ; and the three of the Western District hold court at Pittsburgh and at Erie.

³ Originally one judge to the district was the normal arrangement, but now nearly half of the districts have more than one judge, and the Southern District of New York has eight.

⁴ When an effort is made to have a United States District Court enjoin (forbid) the enforcement of a State statute or an order of a State or Federal commission, the case is heard by three judges, at least one of whom must be a Circuit Court judge or a justice of the Supreme Court.

several cases can be heard at the same time where there are several judges for one district.

A District Court has original jurisdiction ¹ of all cases which come under the jurisdiction of the Federal courts ² except cases



to which a State is a party, suits involving representatives of foreign governments, customs cases, and claims against the United States. In most cases appeals may be taken from the

¹ By "original jurisdiction" of a District Court is meant that a case is first brought in that court.

² The District Court has jurisdiction of (1) all civil suits brought by the United States or one of its officers authorized to sue; (2) cases arising under the Constitution, statutes, or treaties of the United States where the sum or value in controversy exceeds \$3000; (3) cases between citizens of different States, or between a citizen of a State and a foreign state or citizen thereof, where the sum or value in controversy exceeds \$3000; (4) all crimes and offenses recognized by the laws of the United States; (5) admiralty and maritime cases; (6) revenue cases, except tariff classifications which come before the Court of Customs; (7) postal cases; (8) all suits arising under the patent, copyright, and trade-mark laws; (9) suits arising under the Federal laws regulating commerce; (10) damage suits brought by an officer against a person injuring him while protecting or collecting revenues of

decision of a District Court to a Circuit Court of Appeals, but in a few cases they may be taken directly to the Supreme Court.¹

The Circuit Courts of Appeals. — In 1891 there were nine Circuit Courts of Appeals² established, and in 1929 the number was increased to ten. The reason for these courts was to relieve the Supreme Court of a large class of cases appealed from the District Courts. These cases had become too numerous for one court to hear, and as a result the Supreme Court was then about three years in arrears with its business.

In 1925 Congress greatly limited the types of cases that may come to the Supreme Court as a matter of right; and the Supreme Court now reviews only the most important cases heard by the Circuit Courts. This practice enables the Supreme Court to decide cases promptly and adds to the importance of the Circuit Courts.

the United States; (11) suits against consuls and vice-consuls; (12) proceedings in bankruptcy; (13) claims not exceeding \$10,000 against the United States (concurrent jurisdiction with Court of Claims); (14) immigration and contract labor cases; (15) suits against monopolies (trusts); (16) suits brought by any person to redress the deprivation of any right, privilege, or immunity secured by the Constitution or statutes of the United States. But note that if the sum or value involved in cases enumerated under (2) and (3) is less than \$3000 the action must be brought in a State court.

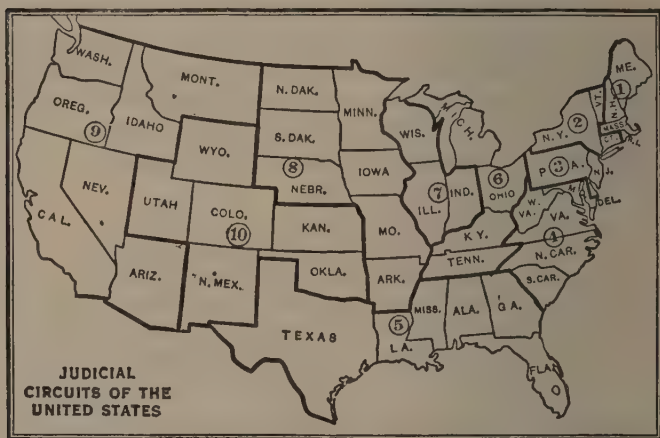
¹ The 1925 Amendment to the Judicial Code permits appeals directly from the District Court to the Supreme Court in the following cases only:

- (1) Anti-trust cases prosecuted by the United States.
- (2) Certain criminal cases where indictment depends upon the validity or construction of a statute, the United States may appeal.
- (3) Injunctions forbidding the enforcement of
 - a. State statutes upon the ground of unconstitutionality.
 - b. Orders of the Interstate Commerce Commission.
 - c. Provisions of 1921 Stock Yard Act by the Secretary of Agriculture.

² Previous to the establishment of the Circuit Courts of Appeals there existed nine Circuit Courts, but these courts have since been abolished (1911) and their jurisdiction transferred to the District Courts and to the Court of Customs and Patent Appeals.

The First Circuit Court of Appeals comprises Rhode Island, Massachusetts, New Hampshire, Maine, and Porto Rico. The judges hold court at least once a year at Boston.

The judges for each Circuit Court of Appeals include one justice of the Supreme Court assigned to the circuit, three to six circuit judges appointed for the circuit, and all the district judges within the circuit. The Supreme Court justice supervises his circuit, but seldom finds time to sit in the court. Normally the court is held by three regular circuit judges, but any district judge within the circuit may be assigned to sit on any case except those which have been appealed from his own district.



These Circuit Courts of Appeals have no original jurisdiction, but hear all cases appealed from the District Courts except the special classes of cases which may be appealed directly to the Supreme Court of the United States. These courts have final jurisdiction in some classes of cases, while in others appeals may be taken to the Supreme Court of the United States.

The Supreme Court is composed of one Chief Justice and eight associate justices. It sits in the Supreme Court room of the Capitol (until the new Supreme Court Building is completed) in Washington from October to May of each year. Its most important duty is to give final interpretation to the Constitution. Whenever any one whose rights are legally involved thinks

a clause of the Constitution has been violated by a law of Congress, a treaty, a provision of a State constitution, or a State statute, he may raise the question in any State or Federal court from the local justice of the peace to the highest judge, and in important cases may obtain the opinion of the Supreme Court.



Harris and Ewing.

THE SUPREME COURT OF THE UNITED STATES, 1932.

The members are, first row, left to right: McReynolds, Holmes (resigned and succeeded by Cardozo in 1932), Chief Justice Hughes, Van Devanter, Brandeis.

Standing: Stone, Sutherland, Butler, Roberts.

The Supreme Court has both original and appellate jurisdiction. That is, some cases are brought directly to this court while others are brought by appeal from the decisions of lower courts. In suits between States, the Supreme Court has original and exclusive¹ jurisdiction;² in suits against ambassadors and

¹ When a court has exclusive jurisdiction over certain suits, they cannot be brought in any other courts.

² The Supreme Court also has original and exclusive jurisdiction of suits

other public ministers, it has original and exclusive jurisdiction; and in suits against consuls it has original but not exclusive jurisdiction.¹ A few types of cases may as a matter of right be appealed directly from a United States District Court,² from the highest State court,³ and from a Circuit Court of Appeals.⁴ Other cases are brought to the Supreme Court from other courts only with its consent;⁵ and its consent is hard to obtain, unless the lower court has departed from the usual course of judicial proceedings or there is conflict of opinion among the judges of the various circuits on the same subject matter.

In the Supreme Court cases are decided by a majority vote.

Concurrent Jurisdiction. — Congress gives Federal and State courts concurrent jurisdiction in many cases, that is, it permits certain cases to be tried either in a Federal court or in a State

brought by the United States or a foreign state against one of our forty-eight States, and original but not exclusive jurisdiction of suits brought by a State against citizens of another State or against aliens.

The United States District Courts have original jurisdiction of suits brought by the United States against individuals, and they have original jurisdiction concurrently with the United States Court of Claims of suits or claims against the United States up to \$10,000 in so far as the United States has consented to be sued.

¹ The United States District Courts also have jurisdiction of suits against consuls.

The exemption of ambassadors, ministers, and consuls from suit in State courts applies only to those of foreign governments accredited to the United States. It has no application to those sent to foreign countries by the United States government.

² See page 331, note 1, for such cases.

³ Cases (a) where the highest State court declares a treaty or Federal statute unconstitutional;

(b) where a State statute upheld by the highest State court is still claimed to be unconstitutional by the aggrieved party.

⁴ A person relying on a State statute may appeal from a Circuit Court of Appeals if it declares a State statute unconstitutional.

⁵ If the party losing his case in the Circuit Court, let us say, petitions the Supreme Court for a review of his case, it will deny the review or will issue a writ of *certiorari* directing the Circuit Court to certify to the Supreme Court the record of the proceedings for inspection and review. During the 1928-1929 term of the Supreme Court 680 petitions were submitted but only 95 were granted.

court. Often a Federal question and a State question are included in the same controversy. Owing to the difficulty and expense of dividing a case for separate trials in different courts, both State and Federal questions are decided in the Federal court, or in some cases both questions may be tried in a State court. But if a plaintiff¹ brings a suit in a State court, over which the United States District Courts are given jurisdiction, the defendant² may have it transferred to the District Court.

Special Courts.—There are three special Federal courts: the Court of Claims, the Customs Court, and the Court of Customs and Patent Appeals. The first was established as a sort of investigating commission to advise Congress concerning claims against the United States government, and the other two were established to insure a uniform interpretation of technical tariff laws, and to hear appeals from the Board of Appeals of the Patent Office.

The Court of Claims, established in 1855, consists of five judges who sit in Washington. It is a well-established principle of public law that a sovereign state cannot be sued against its will, and before the establishment of this court a person having claims against the United States government could get no redress except by an Act of Congress.

Now the government allows itself to be sued in this court on all claims, except pensions and certain "war claims," founded upon the Constitution of the United States or any laws of Congress, or upon any regulation of an administrative department, or upon any contract, expressed or implied, with the government of the United States; but it will not permit itself to be sued for the wrongful acts of its officers.

The awards of this court, unlike those of all other courts, cannot be paid until Congress appropriates the money to pay them. Upon the first day of each regular session of Congress

¹ A *plaintiff* is a person who commences a suit in law against another.

² A *defendant* is a person accused or summoned into court who defends himself against the charge.

the findings of the court for the year are sent to Congress, and the money is appropriated almost as a matter of course.

The Court of Claims may ask the Supreme Court for instructions on any definite and distinct question of law pertaining to a case, or the Supreme Court may require, by certiorari, that a cause be certified to it for review and determination.



Keystone.

GOODS FROM CHINA BEING EXAMINED ON THE DOCK.

The customs officials examine enough packages chosen at random to satisfy themselves that the contents are as represented. If there is any question as to the value of the goods, they are examined by experts. If the importer considers the appraisement wrong, he may appeal to the Court of Customs.

Congress or any administrative department may refer claims to this court. The court will investigate the claims and report to Congress or to the department whether they ought to be paid. For instance, Congress will refer "war claims" which cannot be sued for in the courts; or a department will wish an opinion of the court which will enable it to settle claims in a practical way without the necessity of suit. No Federal court other

than the Court of Claims will give an opinion unless suit is actually brought.

The Court of Customs is the name applied by Congress in 1926 to the former Board of General Appraisers. The nine judges, who sit in divisions at the principal ports of entry, hear appeals from appraisers and collectors of customs affecting the valuation and classification of merchandise.

The Court of Customs and Patent Appeals consists of five judges. Its headquarters is in Washington but many cases are heard in New York. It hears appeals from the Court of Customs, and has such questions as the following to decide: Are golf hose subject to the tariff duty imposed upon "wool half hose" or the lower duty imposed upon "equipment ordinarily used with golf balls in exercise or play"? Are ivory flowers dutiable as "artificial flowers"? Are jew's-harps dutiable as "musical instruments" or as "toys"? Are goose livers dutiable as "dressed poultry" or as "meats"? Also, does "manufactured furs" include fur skins whose holes have been sewed? This was decided affirmatively, hence the same rate had to be paid upon them as upon furs made into garments.

If an examiner of patents rejects an application for a patent, an appeal may be taken to the Board of Appeals of the Patent Office. If this board sustains the examiner in rejecting the application, an appeal may then be taken to the Court of Customs and Patent Appeals.¹

Tuesday.
Judges. — All Federal judges are appointed by the President of the United States and confirmed by the Senate. The salaries of these judges vary from \$10,000 to \$20,500 a year, and they hold their office during good behavior,² which means that they

¹ The Supreme Court may, upon the application of either party, require the Court of Customs and Patent Appeals to certify a case to it for review and determination. But in practice the Supreme Court refuses to review cases decided by the Court of Customs and Patent Appeals unless some important principle is involved.

² Judges for the territories and island possessions are appointed for only four or six years.

cannot be removed except through impeachment by Congress. However, removal by impeachment has occurred only three times.¹

At the age of seventy any Federal judge may retire on full salary, provided he has served for ten years.

As all Federal courts, except the Supreme Court, are mere creations of Congress, they may be abolished by Congress at any time. In 1911 nine Circuit Courts were abolished but the judges were retained for service in the Circuit Courts of Appeals, and other Federal courts.

In September of each year the Chief Justice of the Supreme Court summons the senior circuit judge of each of the ten circuits to Washington for an annual conference. Preparatory to this conference the district judge of each district² submits a report to the senior circuit judge in August setting forth the number and character of cases on the docket. The conference makes a careful survey of the condition of the business of the court and prepares for the temporary transfer of judges to circuits and districts where the condition of business indicates the greatest need. The senior circuit judge may temporarily transfer a district judge from one district to another within his circuit, and the Chief Justice of the Supreme Court may temporarily transfer a district judge to a district of another circuit.

Court Officials. — *District Attorneys* are appointed by the President and Senate for a term of four years. There is one

¹ Judge Pickering of the District Court for New Hampshire was removed for drunkenness in 1803; Judge Humphreys of a Tennessee District Court, for disloyalty in 1862; and Judge Archbald of the Commerce Court, for improper business relations with persons having cases in court in 1913. Three other judges have been impeached by the House but acquitted by the Senate, the most famous one of whom was Associate Justice Chase of the Supreme Court, who was accused of expressing himself too freely in regard to politics.

² The senior district judge makes this report in districts with more than one district judge.

United States attorney for each judicial district. It is the attorney's duty to bring suit against all persons violating the Federal laws within the district, and to prosecute them — in short, to represent the Federal government in any case arising within the district to which the government is a party. Some districts have a number of Assistant United States Attorneys.

In addition to these district attorneys there are numerous Special Assistants to the Attorney-General stationed over the country and assigned to special classes of cases — *e.g.*, anti-trust, claims against the United States, taxation, prohibition, and land titles.

United States Marshals are appointed in the same manner as the district attorneys, one for each district. It is the marshal's ¹ duty to make arrests and execute various court orders. If he meets with resistance in the performance of his duties, he may call upon the citizens for assistance; and if necessary, the President will send United States troops to assist him.

In the appointment of district attorneys and marshals the President consults with the Attorney-General, as the latter officer exercises general supervision over them.

Clerks are appointed by the courts, each court appointing one. The clerk has custody of the seal of the court and keeps a record of its proceedings, orders, judgments, etc. Most districts have Deputy Clerks stationed in cities where the District Court is held.

District Court Commissioners are appointed in sufficient number by each district court. A commissioner issues warrants of arrest on criminal proceedings, takes bail, and inquires whether there is probable cause to hold the accused to answer to the charge in court.²

¹ A United States marshal bears the same relation to the Federal court that a sheriff bears to the State court.

² A Federal district court commissioner discharges for the United States government such functions as are performed for a State government by a justice of the peace.

NAME	ESTABLISHED	NUMBER OF COURTS	NUMBER OF JUDGES	TERM OF JUDGES	JUDGES APPOINTED BY	SALARY OF JUDGES
District Court (85 districts)	1789	145	145	Life	President and Senate	\$10,000
Circuit Court of Appeals .	1891	10	40	"	"	12,500
Supreme Court	1789	1	9	"	"	20,000 ¹
Court of Claims	1855	1	5	"	"	12,500
Customs Court	1926	1	9	"	"	10,000
Court of Customs and Patent Appeals	1909 & '29	1	5	"	"	12,500

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QUESTIONS ON THE TEXT

1. Name the regular courts of the United States. The special courts.
2. The Federal courts have jurisdiction over what two classes of cases because of the character of the subject matter? Over what six classes because of the character of the parties?
3. How many District Judges are there and how many districts?
4. The District Courts have jurisdiction over what kind of cases?
5. To what higher courts may appeals be taken from the District Courts?
6. How many Circuit Courts of Appeals are there? Who supervises each of the circuits?
7. How many judges has each of the Circuit Courts of Appeals?
8. From what court are cases appealed to the Circuit Courts of Appeals? To what court are certain cases appealed from them?
9. Of how many judges does the Supreme Court of the United States consist? When and where does the court sit?

¹ The Chief Justice receives \$500 extra.

10. From what courts are cases appealed to the Supreme Court of the United States?

11. In what two classes of cases does the Supreme Court have original jurisdiction?

12. May a question involving the interpretation of the Constitution of the United States be taken to the Supreme Court?

13. Of how many judges does the Court of Claims consist? What cases are decided by this court? In what respect does the Court of Claims differ from all other courts?

14. Of how many judges does the Court of Customs and Patent Appeals consist? Where does it sit? Over what cases does it have jurisdiction?

15. Who appoints all Federal judges? For what term? How may they be removed? Under what condition may they retire on full salary?

16. May Congress abolish Federal courts?

17. What is the duty of district attorneys? By whom are they appointed?

18. What is the duty of the United States marshals?

19. What is the duty of court clerks? By whom are they appointed?

20. What are the duties of district court commissioners? By whom are they appointed?

QUESTIONS FOR DISCUSSION

1. A woman attempted to pass a fifty-dollar note at Gimbel's store in New York City, but the clerk detected something peculiar about it. The floor detective discovered it to be a twenty-dollar bill with each figure two changed to five. The woman was arrested on the charge of attempting to pass counterfeit money. She was believed to be a "shover" for a band of counterfeiters. In what court was she tried?

2. At a "port of entry" along the Canadian border frog legs were appraised as dressed poultry, there being a tariff duty on poultry but not on frogs. Naturally the importer was dissatisfied with the decision of the appraiser. To what court could he carry the case?

3. The penalty for defacing a letter box is a fine not exceeding one thousand dollars or imprisonment for not more than three years, or both. In what court would a party accused of this offense be tried?

4. If Virginia should pass a law prohibiting farm hands from working more than six hours a day, the law would probably be unconstitutional. If a sheriff or constable should arrest a farmer for violating the State law and bring him before a justice of the peace for trial, he could claim that the law is unreasonable and contrary to the Fourteenth Amendment

of the Constitution of the United States. If the lower courts should decide against the contention, how high could the farmer appeal the case?

5. In 1913 the legislature of California passed the alien land bill, which provided that only those persons eligible to citizenship might own land in that State. Japan claimed that this provision violated a treaty between the United States and Japan. President Wilson suggested that Japan sue the State of California. If the treaty was violated, the California law was void, as a treaty is part of the supreme law of the land. In what court could the state of Japan bring suit?

6. When the Chicago Canal was dug, connecting Lake Michigan with the Illinois River, the sewage of Chicago was emptied into this Canal. The outlet of the Canal is through the Illinois River into the Mississippi. St. Louis obtains its drinking water from the Mississippi; hence the State of Missouri sued the State of Illinois, demanding that Chicago be prohibited from polluting the accustomed supply of water of St. Louis. The counsel for Illinois had several hundred barrels of harmless bacteria emptied into the stream at Chicago and found that none survived until the water reached St. Louis. In what court did Missouri lose the suit?

7. The United States built a dam across a river in South Carolina to aid navigation, and thereby destroyed the value of rice lands. Mr. Hayward, the owner, claimed damages and won the suit. In what court did he win the suit?

8. During the Civil War some colored Union soldiers destroyed a home in Alabama which they had been sent to protect. After the war a congressman from Alabama asked Congress to pay the owner for the loss of his property. Congress referred the matter to the proper court, which decided that there was no legal claim against the United States, only against the soldiers, but recommended the appropriation of \$17,500 as an honorable obligation upon the principles of right and justice. To what court was the matter referred?

9. What court of appeals decided that calf livers were dutiable as "meat" and not as "veal," and that a dollar horn is a "musical instrument" and not a "toy"?

10. President Roosevelt once said: "A judge of the Supreme Court is not fitted for the position unless he is a constructive statesman, constantly keeping in mind his adherence to the principles and policies under which this nation has been built up and in accordance with which it must go on; and keeping in mind also his relations with his fellow statesmen who in other branches of the government are striving in coöperation with him to advance the ends of government. Marshall

rendered invaluable service because he was a statesman of the national type, like Adams who appointed him, like Washington whose mantle fell upon him." Do you agree with Theodore Roosevelt? When the Court is interpreting the commerce clause of the Constitution in a way that increases the power of the central government, and is declaring the District of Columbia Minimum Wage Law unconstitutional, is it merely explaining the words of the Constitution or is it performing the function of statesmen?

11. Just before appointing Oliver Wendell Holmes as a Supreme Court judge, President Roosevelt said: "Judge Holmes' labor decisions which have been criticized by some of the big railroad men and other members of large corporations, constitute to my mind a strong point in Judge Holmes' favor. The ablest lawyers and greatest judges are men whose past has naturally brought them into close relationship with the wealthiest and most powerful clients, and I am glad to preserve his aloofness of mind so as to keep his broad humanity of feeling and his sympathy for the class from which he has not drawn his clients. I think it eminently desirable that our Supreme Court should show in unmistakable fashion their entire sympathy with all proper effort to secure the most favorable possible consideration for the men who most need that consideration." Why does the United States Senate feel free to refuse to ratify the appointment of judges for the Supreme Court?

(End) J. H.

CHAPTER XV

X CIVIL RIGHTS

Civil Rights Defined. — The civil rights of an individual are all the legal rights he has except the right to vote and to hold office, which two rights are known as political rights. An individual has a right to do anything which is not prohibited by the laws of the land; but inasmuch as the laws of the land are continually changing, the individual's rights are also continually changing.

However, there has always existed a feeling that one should not be deprived of certain rights without exceptional consideration. These more precious rights are listed in the Constitution of the United States and in the constitutions of the States, and are therefore beyond the control of Congress and the State legislatures. (See page 423.)

Civil Rights beyond the Control of Congress and the States. — The Constitution of the United States provides that neither the United States nor the States may do certain things.

(1) Neither the United States nor the States may deprive any person of the right to be free. (Thirteenth Amendment.)

(2) Neither the United States nor the States may punish any person by a bill of attainder. (Art. I, Secs. 9 and 10.)

A *bill of attainder* is a legislative act which inflicts punishment without a judicial trial. For example, in 1865 Congress passed a law providing that no person would be permitted to appear as an attorney before the Federal courts unless he would take an oath that he had not in any way aided the Confederate cause. The Supreme Court held this to be a bill of attainder, and hence unconstitutional.)

(3) Neither the United States nor the States may punish any person by an *ex post facto* law.

An *ex post facto* law is a criminal law which in any way works to the disadvantage of any person committing, or accused of committing, a crime before the law is enacted. That means that a State law making it a crime to sell cigarettes cannot pénalize the selling of cigarettes before the law was passed; it means that a law increasing the penalty for first-degree murder from 20 years of imprisonment to death cannot be enforced against one who committed murder before this law was passed; and it means that a law providing for conviction by a unanimous decision of a jury of eight instead of twelve cannot apply to a crime committed before the passage of the law because this new law works to the disadvantage of the accused.

Protection under the *ex post facto* clause applies to criminal cases only, and a retroactive civil law is not forbidden by the *ex post facto* clause. For example, an income tax law enacted in November can impose a tax upon one's income for the entire year including the preceding ten months.

(4) Neither the United States nor the States may deprive any person of life, liberty,¹ or property,² without due process of law. (Fifth and Fourteenth Amendments.)

The Declaration of Independence spoke of the right to "life, liberty, and the pursuit of happiness." But before the Fifth and Fourteenth Amendments were added to the Constitution the country had become more conservative so it provided constitutional protection for "life, liberty, or property."

Double Meaning of Due Process of Law. — When one reads the phrase "due process of law" he thinks of due, or proper, procedure in courts. But the phrase has come to mean much

¹ *Liberty* means not only the right of freedom from imprisonment, but the right of one to use his faculties in all lawful ways, and to pursue any lawful trade or diversion.

² *Property* means more than mere physical property. It includes stocks, bonds, good will, professional knowledge, and the income therefrom.

more. After the Civil War the Fourteenth Amendment was added to the Constitution primarily to insure justice to the freed slaves. But what good could proper procedure do them if they were tried under unjust laws. So the Supreme Court construed due process to mean not only a fair procedure but also a fair law. And if a fair law was good for the new freedman it was good for all individuals, and it was good for groups of individuals, or corporations.

So, judicially viewed, due process of law means a fair legal procedure; but legislatively viewed it means a law whose very substance is just and reasonable. Therefore we may view due process from the procedural side and from the substantive side.

From the Procedural Viewpoint the due process of law clauses forbid the taking of one's life, liberty, or property except by legal procedure in accordance with the fundamental ideas of fairness and regularity which exist in Anglo-Saxon countries. This includes due notice and an opportunity to be heard. A procedure may be in accordance with due process of law, however, without a jury trial,¹ provided judgment is rendered only after some sort of a fair trial. If a trial is not fair, redress may be had in a higher court.

From the Substantive Viewpoint the due process clause of the Fifth Amendment protects individuals or minority groups against Acts of Congress which are unjust, and the Fourteenth Amendment protects them against Acts of States and laws of local legislative bodies if unjust. The judges of the Supreme Court will declare unconstitutional any Act appealed to them if they consider it unjust.

If one considers legislation unreasonable, he can refuse to comply with the Act and carry his contention to the Supreme Court. Thus the court becomes a third chamber above the two chambers of Congress and the State legislatures. In other

¹ The Sixth and Seventh Amendments of the United States Constitution guarantee jury trials in most Federal cases, and State constitutions usually guarantee jury trials in State cases of importance.

words, the Supreme Court constitutes a house of censors to pass upon social and economic matters of public interest rather than mere legal technicalities. Therefore, when the President and Senate select a Supreme Court judge they should consider carefully his attitude on public problems as well as his legal knowledge.

The Fifth Amendment forbids only the National government to deprive any person of life, liberty, or property without due process of law. As Congress was rather conservative the Supreme Court had little occasion to declare Acts unconstitutional under this clause. But after the Civil War the Fourteenth Amendment made this due process clause apply to the States, and there are 48 legislatures and thousands of city councils to pass acts or ordinances which may unreasonably deprive minority groups — especially public service corporations — of their liberty or property.

Whenever the Supreme Court declares an act or ordinance in one State unconstitutional this decision henceforth restricts the legislatures and councils in all States. For example, when the Supreme Court declared the Minimum Wage Act of Arizona unconstitutional it was understood that similar laws of a dozen other States were unconstitutional.

Conflict of the Police Powers against the Due Process Clauses. — As soon as the Supreme Court judges used the Fourteenth Amendment due process clause to make themselves censors of State legislation, the States resented it and became jealous of their powers. So the lawyers representing the States devised the "Police Powers" theory to fight the powers of the Supreme Court under the "Due Process of Law Clauses." The Police Powers theory is that any State law¹ which promotes the health, morals, safety, or welfare of the people is reasonable and constitutional, and not in conflict with the due process clauses.

¹ The Federal government has the police powers over the District of Columbia and dependencies, under the 18th Amendment, and to a limited extent indirectly in legislating for interstate commerce. But police powers are usually thought of as reserved powers of the States.

So to-day, whenever an Act is attacked by an individual or corporation as depriving persons of life, liberty, or property without due process of law those defending the Act try to show that it promotes health, morals, safety, or welfare. If they persuade the Supreme Court that it properly promotes these worthy ends, the Court will declare the Act constitutional as a proper exercise of the "Police Powers."

This conflict can be illustrated by legislation dealing with hours of labor. The general principle is that a person is at liberty to contract for his labor, and if this liberty is unreasonably interfered with, the Supreme Court can protect the individual by showing that he is being deprived of liberty without due process of law. But inexperienced children, women who are physically weaker than men, and men who are educationally or economically weak do not need liberty so much as protection — protection to health, morals, and safety.

Thus the Supreme Court has granted that it is a proper exercise of a State's police power to limit reasonably the hours of labor for children. This court has also permitted States to prohibit the employment of females in factories, stores, laundries, and hotels more than eight hours a day, because women are the mothers of families and the general welfare of the race depends in an especial manner upon their physical condition.

The States can also, to a limited extent, restrict the working hours for men. A State can, of course, limit State or local government work to eight hours; it can prohibit the employment of coal miners more than eight hours a day because working long hours in mines is injurious to health; and it can limit the hours of labor for railway employees because they are intrusted with the lives of passengers and need to be wide awake. In 1917 the Supreme Court upheld an Oregon law which prohibited the employment of mill and factory workers for more than ten hours a day¹ because it is not safe for one to work with dangerous

¹ This Oregon law permitted three hours overtime in cases of emergencies, provided one and one half times the regular wage be paid.

machines when exhausted.¹ Whether the Supreme Court would uphold a law forbidding men to work more than eight hours a day in mills and factories depends upon whether the court believes the liberty or the protection is of more value.

By going through the decisions of the Supreme Court interpreting the Fifth or Fourteenth Amendment² we can get some idea as to whether or not the court will consider that a certain law deprives one unreasonably of life, liberty, or property; but we cannot be certain that an Act passed by Congress or a State legislature is a good, valid law until the Supreme Court of the United States has upheld the law after hearing an actual case in which the constitutionality of the law was questioned.³

¹ In an earlier case (1905) the Supreme Court declared unconstitutional a New York statute which restricted bakers to a ten-hour day, because baking is not an unhealthy occupation, therefore the court considered the law an improper restraint upon the liberty of the bakers to contract for their labor.

² Some years ago a count was made of the Supreme Court decisions interpreting the "due process clause" of the Fourteenth Amendment for a period of ten years. The court was found to have made nearly four hundred decisions interpreting this clause. Fifty of these decisions declared State laws unconstitutional. For example, a State legislature enacted a law requiring railroads to carry passengers within the State at two cents a mile. The railroads showed that they would lose money carrying passengers at this rate, and the Supreme Court declared the law unconstitutional because its enforcement would be taking property unreasonably — "without due process of law."

Among the other three hundred and fifty laws which were tested in the Supreme Court but held to be constitutional were the following: (1) A Boston ordinance prohibited the holding of meetings on the Boston Common. (2) Tennessee prohibited the sale of cigarettes. (3) A Boston ordinance restricted the height of buildings. (4) Texas compelled railroads to cut wild (Johnson) grass from their right of way. (5) Massachusetts compelled people to be vaccinated.

³ A Federal court will not tell one whether a certain Act will be lawful. It never acts until an individual or corporation accuses another of breaking the law and brings an actual case for its decision. There are two reasons for this practice: First, a judge could not possibly foresee all of the effects of a certain legislative act. Second, when an actual case comes to court, attorneys collect the law and arguments for each side of the contention, and the judge acts somewhat as a referee. If the judge did not have these

CONFLICT BETWEEN THE DUE PROCESS <i>Judicial Liberty under the Due Process Clauses</i>	CLAUSES AND THE POLICE POWERS <i>Legislative Restrictions under the Police Powers</i>	
<p>“No person shall be deprived of life, liberty, or property without due process of law.” (Amendment V restricting Nat’l Gov’t.)</p> <p>U. S. Supreme Court</p>	<p><i>Congress</i> may legislate through police powers for the District of Columbia, for the territories, under the 18th Amendment, and indirectly through its power to tax and to regulate interstate commerce. But police powers are primarily reserved powers of States. <i>State Legislatures</i> may:</p> <ul style="list-style-type: none"> forbid child labor; reasonably restrict the hours of labor; restrict liberty by quarantines and compulsory vaccination; prohibit gambling; forbid business and commercial amusements on Sunday; enact “bone dry” liquor laws; forbid carrying firearms; enact traffic restrictions; require railroads to employ “full crews”; compel children to attend school; restrict the use of property through zoning laws; and prohibit landlords, during a housing shortage, from evicting tenants or raising rents. <p>Health</p>	Congress
<p>Due Process of Law Clauses</p>	<p><i>A State Legislature</i> cannot prescribe a minimum wage for men or women; nor require all children to attend <i>public</i> schools; nor forbid teaching foreign languages in private schools; nor forbid Negroes to move to a block where whites live; nor hold bank directors fraudulently liable for <i>every</i> bank failure; nor fix prices at which gasoline must be sold; nor prescribe rates for public utilities so low as to make a fair profit impossible.</p> <p>Police Powers</p>	Police Powers
<p>U. S. Supreme Court</p>	<p>Morals</p>	
	<p>Safety</p>	State Legislatures
	<p>Welfare</p>	

State Due Process Clauses. — In addition to the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution, about half of the States have due process clauses in their State constitutions. So if a State law is held to be constitutional under the United States Constitution, it may still be declared unconstitutional under the due process clause of the State constitution. For example, the Workmen's Compensation Law which compels employers to compensate employees injured in their employ was held by the United States Supreme Court to be constitutional according to the United States Constitution. But the Supreme Court of New York State declared the New York Workmen's Compensation Law contrary to the due process clause of the New York Constitution. Thus a law, which was considered according to due process of law in the other States, was unconstitutional in New York; and the New York Constitution had to be amended before New York could have a Workmen's Compensation Law.

Civil Rights beyond the Control of Congress. — The first ten amendments to the Constitution of the United States are known as the Bill of Rights because they contain so many guarantees of liberty that are set forth in the English Bill of Rights.¹ These amendments restrict Congress alone. This fact cannot be too strongly emphasized, because most people think that these restrictions apply to the States as well as to the United States. Congress may not take away any of the liberties set forth in these amendments, but through legislation the States may deprive their citizens of many of these liberties without violating the Constitution of the United States. *Thurs -*

Civil Rights beyond the Control of States. — The Constitution of the United States places upon the States three im-

arguments collected for him, it would be necessary for him to investigate the law as well as decide it, and for this he has not the time.

However, the Supreme Courts of some States will render an "advisory opinion" upon the request of the Governor or of the State Legislature.

¹ The English Bill of Rights is an Act of Parliament enumerating various liberties guaranteed to the subjects to which King William assented in 1689.

portant restrictions involving civil rights which it does not place upon Congress.

(1) *No State may pass any law impairing the obligation of contracts.* (Art. I, Sec. 10.) This restriction means that a law enacted after a lawful contract has been made shall not affect the provisions of such contract. For example, Crowninshield of New York gave his note to Sturges of the same State on March 22, 1811. Shortly thereafter the State of New York passed a bankruptcy law¹ under which Crowninshield became a bankrupt. Paying Sturges a certain per cent of the debt, Crowninshield claimed that he was exempt from payment of the remainder. Application of this bankruptcy law of New York State to debts contracted before its passage was declared unconstitutional by the Supreme Court of the United States as impairing obligations of contract.²

(2) *No State may make anything but gold and silver coin a tender in payment of debts.* (Art. I, Sec. 10.) This restriction means that no State may enact a law requiring a creditor to accept anything but gold or silver when tendered in payment of a debt.

(3) *No State may deny to any person within its jurisdiction the equal protection of its laws.*³ (Fourteenth Amendment.) This

¹ For meaning of "bankruptcy law" see U. S. Constitution, Art. I, Sec. 8, note.

² A charter granted by a State to a *private corporation* is a contract which cannot be materially changed by the State, unless the charter itself, a State law, or the State Constitution reserves the right to change charters.

A charter granted to a *public corporation*, such as a city, can be changed because the city is merely a subdivision of the State.

A charter, franchise, or license permitting business which adversely affects the health, morals, safety, or general welfare can be repealed, because the State cannot contract away its powers to regulate health, morals, safety, and welfare ("*police powers*"). For example, if a State granted a liquor license and then enacted a prohibition law, the license was construed to be legally canceled.

³ Though this *equal protection of the laws* clause is a restriction upon the States only, a law of Congress depriving persons of equal protection might be declared unconstitutional as being in conflict with the Fifth Amendment, which prohibits Congress from depriving any person of life, liberty, or property without due process of law.

means that no State may enact laws which discriminate unreasonably between persons or classes of persons. For instance, Illinois could not prohibit all combinations to fix prices or restrict competition "except farmers and stock raisers." A State could not require railroads "alone" to pay court costs when defeated in a suit. In 1914 Arizona provided that any company or individual that employs more than five persons must employ not less than 80 per cent qualified voters or native-born citizens of the United States. This law was declared unconstitutional because its enforcement would have discriminated against aliens and thus would have deprived them of the equal protection of the State's laws.

Civil Rights beyond the Control of State Legislatures. — Each State constitution contains a Bill of Rights placing restrictions upon the State legislature just as the Bill of Rights in the Constitution of the United States places restrictions upon Congress. The Bills of Rights of State constitutions contain such provisions as the following: guarantee of trial by jury, religious freedom, freedom of the press, writ of habeas corpus; prohibition of excessive bail, excessive fines, cruel and unusual punishment; and the guarantee that no person shall be deprived of life, liberty, or property without due process of law.

Religious Liberty. — Congress may not make any law respecting the establishment of a religion, nor may it interfere with the freedom of religious worship. (First Amendment.) The Constitution of Virginia provides that "all men are equally entitled to the free exercise of religion, according to the dictates of conscience." (Art. I, Sec. 16.) However, if any of the various denominations have special peculiar religious observances which form a part of their beliefs, they are expected to make these conform to the general laws of the land. A person may believe whatever he pleases, but he must not, in the name of religious liberty, violate a statute enacted for the general welfare of society.

The Freedom of Speech and of the Press. — Congress can make no law abridging the freedom of speech and of the press (First Amendment); and the Constitution of Virginia provides that “any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the use of that right.” (Art. I, Sec. 12.)

A person has the right to speak or publish what he chooses so long as he does not violate a statute law, injure some one's reputation or business, violate public morality, or create a disturbance calculated to result in bodily injury. Officers of government and candidates for office may be criticized if the critic speaks of what he knows or believes, has only the public interest in view, and speaks without malice.

To illustrate, if John Smith is a candidate for the city treasurer-ship, one could publish the fact that he had been a grafter during the World War. But publishing the same fact against Smith simply because one dislikes him would make such person subject to damage suit; or, if the publication results in a feud or a breach of the peace, such publication is also a crime¹ which the State can punish, and proof that the statement is true will be no defense. If a person has lived as a good citizen for a number of years, he has a right not to have his past record made public by a person prompted by a spiteful or malicious motive.

The prohibiting of addresses in public parks or thoroughfares and of profane language in certain places is not considered an abridgment of freedom of speech. For instance, it is a Federal crime to use profane or indecent language over the radio.

The Right to Assemble and to Petition. — Congress may not prevent any peaceable assembling or any governmental petition, and a State may prevent neither a petition to the National government nor a peaceful meeting for the purpose of preparing a petition to the National government, but a State

¹ For the meaning of “crime,” see page 481.

may prescribe where and when meetings may be held. To illustrate, a State could not prevent the meeting of reformers for the purpose of petitioning the National government to propose a constitutional amendment prohibiting the use of cigarettes; but if street meetings interfere with traffic, the city authorities may require the reformers to meet in halls or in the suburbs.

The Writ of Habeas Corpus. — The Constitution of the United States (Art. I, Sec. 9) provides that “the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.” All State constitutions have similar provisions. This writ secures to any person who claims to be unlawfully detained by a public officer or a private person the right to have an immediate preliminary hearing before a civil court that he may learn the reason for his detention.

This writ applies not only to persons who are imprisoned. It has been used by a husband to secure the return of his wife who was taken home by her parents, and by a mother to recover her infant who was through mistake exchanged for the infant of another woman.

The Right of Trial by Jury. — The Constitutional guarantee of trial by jury applies only to Federal courts.¹ In civil cases at common law one is entitled to a jury trial if the value in controversy exceeds \$20. In criminal prosecution one is entitled to a jury trial; and where the penalty is as much as six months' imprisonment or \$500 fine, one cannot be tried unless indicted by the grand jury.

Jury trials apply only to those cases which were settled by juries in the colonies and in England when the Constitution was adopted. Thus they do not apply to military courts, to equity cases (see pages 478 and 480), such as injunctions, nor to proceedings for contempt of court.

¹ See Art. III, Sec. 2, Cl. 3, and Amendments V, VI, VII.

Injunction Proceedings. — An injunction is an order issued by a judge, which directs some individual or corporation to do or refrain from doing some particular act. Injunctions are either *mandatory* or *preventive*. They are *mandatory* when they compel a party to perform some particular duty, as, for instance, where a water company is compelled to turn on water which it has shut off without legal right. (A preventive injunction is one which orders a party to *desist* from doing some act which he is engaged in, or proposing to do, in violation of the rights of others. For instance, if a property owner were attempting to build beyond his building line, the adjoining owners could restrain him by an injunction.

Injunctions are also classified according to the *duration* of the time that they are to be in effect. They may be issued for a temporary period only, or they may be permanent. Temporary injunctions are granted in order to stop a threatened injury, or to keep matters as they are until the *controversy* between the parties can be heard on its merits. If, after the case has been heard, the court thinks that the *plaintiff* is entitled to injunction, the temporary order is made permanent.)

When a court of equity is asked to issue an injunction, it will first determine whether the *complainant* has an adequate remedy at law, and whether an irreparable injury will result if the injunction is not issued. If he has such a remedy, or if the injury will not cause irreparable damage, the injunction will be denied. If an injunction is issued and violated, the judge may fine or sentence to imprisonment the one who violates the order.

Contempt Proceedings. — Every court must have the power of self-preservation. It must have the power to *quell* any disturbance in or near the court room. It must have power to compel witnesses to attend and to give testimony, and to prevent their insulting the court. Every court must be able to enforce obedience outside of the court to certain writs and decrees. Therefore, to protect itself, the court has power to fine or imprison one who shows contempt for the person or the order of

the court; and a judge may sentence one for contempt in most cases without trial by jury.

Injunctions in Labor Disputes. — Injunctions may be issued to prevent picketing during a strike, to prevent parades by the strikers, or to prevent (the holding of meetings.) In fact, the injunction is sometimes so broad in its prohibitions as to make the winning of a strike practically impossible. So the American Federation of Labor has strongly opposed the use of injunctions in labor disputes: first, because it restricts labor in competing with capital; and second, because one accused of violating an injunction may be imprisoned for contempt of court without trial by jury, in spite of the Clayton Act of 1914 which was expected to remove this complaint.

Some have proposed the complete abolition of the injunction in all labor cases. But employees at times need the protection of the injunction remedy as well as employers. (Perhaps the abuses of the injunction might be curbed by specific legislative restrictions on its use.) As to trial for contempt, Chief Justice Taft opposed trial by jury. Except for contempt in the presence of the court, he favored the right of the accused to demand trial before a judge other than the one whose order he is accused of violating.)

Equality before the Law. — Our legislators and judges endeavor to make all equal before the law, though there are instances where the ideal is not easy to realize.

(1) A poor man accused of a crime cannot afford able lawyers to plead his cause most advantageously; but he does usually have a sympathetic jury.

(2) When a poor man gets a final judgment against a man of means, the judgment must be paid; whereas a judgment against a poor man cannot be enforced unless within a limited period he acquires property. In America one cannot be imprisoned for a debt honestly contracted.

(3) When a fine is imposed, the rich man pays the fine — (perhaps with no inconvenience; the poor man serves his time

in jail. If the offense is petty why not give the poor man credit, release him, and allow him to pay the fine by installments?

(4) A rich man may appeal to the higher courts if the lower court decides against him and thus may drag out the case until the poor man is obliged to abandon his right for lack of lawyers' fees and court fees. The demand is for speedier justice.

This is a challenge to you — rich or poor — to remove the few remaining inequalities. In no other country are the inequalities so few. The rich pay high progressive income and inheritance taxes; and the poor have the workmen's compensation laws, free education, equal suffrage, and can vote taxes upon the rich because they outnumber them. With free education a poor boy can become a Lincoln as readily as a rich boy.

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See Bibliography for Chapters V and VI.

QUESTIONS ON THE TEXT

1. What are *civil* rights? What are *political* rights?
2. In what documents are the more precious civil rights preserved?
3. What three civil rights are beyond the control of Congress or the States?
4. What is a *bill of attainder*?
5. What is an *ex post facto* law?
6. Explain fully the meaning of "due process of law." Give one illustration of a law which would be contrary to "due process of law" because of improper procedure; because of unreasonableness. How are the due process clauses and the police powers in constant conflict?
7. Will courts consider a moot point of law, or must actual cases be brought before them before they will explain the law?
8. What is a Bill of Rights? Why are the first ten amendments to the Constitution of the United States known as the Bill of Rights?
9. Do these amendments restrict State legislatures or only Congress?
10. The Second Amendment provides that the right of the people to keep and bear arms shall not be infringed. Could your State legislature pass a law restricting the carrying of arms?

11. What three important civil-right restrictions are placed upon the States which are not imposed upon Congress? Illustrate.

12. State Bills of Rights commonly prohibit State legislatures from interfering with what rights of the people?

13. May a person *believe* whatever he pleases regarding religious matters? May he *do* what he pleases, asserting that his deeds are a part of his religion?

14. May one person *say* what he chooses regarding another? May he *publish* it?

15. May the right to assemble and petition be denied?

16. What is the privilege of the writ of *habeas corpus*? Under what conditions may it be denied?

17. Upon whom does the responsibility rest to correct before the law such inequalities as do exist?

QUESTIONS FOR DISCUSSION

1. If the United States Congress should impose a death penalty for smuggling narcotics into the United States, could the Act of Congress apply to smugglers who had brought the narcotics in before the Act was passed?

2. Explain the meaning of the following quotation of Professor Corwin: "The truth of the matter is that the modern concept of due process of law is not a legal concept at all; it comprises nothing more or less than a roving commission to judges to sink whatever legislative craft may appear to them to be, from the standpoint of vested interests, of a piratical character."

3. Referring to the Supreme Court, Mr. Coolidge said: "If its authority should be broken down and its powers lodged with the Congress, every minority body that may be weak in resources or unpopular in the public estimation, also nearly every race and religious belief, would find themselves practically without protection." Give illustrations of this fact.

4. Which of the following unconstitutional statutes interfering with liberty are in conflict with the Fifth, and which with the Fourteenth Amendment: District of Columbia minimum wage as applied to men and women (valid for children); Nebraska statute forbidding the teaching of foreign languages in private schools until the eighth grade is passed; Oregon statute requiring all normal children to attend *public* schools through the eighth grade.

5. Why could not the legislature of your State enact a law providing that no farm hand may work more than five hours a day?

6. Virginia permitted any county to vote for or against cedar trees which were responsible for cedar rust on apples. Shenandoah County voted to destroy cedar trees. The owner of a fine estate with beautiful old cedar trees in front of his house tested the constitutionality of the law; and the United States Supreme Court decided that the law did not deprive owners of cedar trees of their property without due process of law. Under what legislative power was this law upheld?

7. In England all important laws are prepared carefully and introduced to the House of Commons by the Cabinet composed of about 20 of England's great statesmen. In the United States nearly a hundred committees prepare bills for Congress and about three thousand committees prepare bills for the 48 State legislatures, and in a third of the States any group may prepare initiative measures. Thus some laws passed by Congress and many passed by the legislatures or directly by the people are badly drawn, unreasonable, or unjust. Therefore nine of our outstanding statesmen forming the Supreme Court believe it necessary for them to declare unconstitutional Acts which seem dangerous to the welfare of the country. In other words, England has legislative centralization and prevents unreasonable legislation; we have judicial centralization and veto unreasonable legislation after it has been enacted. Which method do you prefer?

8. In the seventeenth century the Pilgrim fathers fled from despotism; in the eighteenth century the colonists revolted from despotism, and Patrick Henry demanded liberty or death; and in the nineteenth century Germans, Irish, and Hebrews were driven to our shores by despotism. France presented us with the statue of liberty. Thus with memories embittered with autocracies, law is likely to appear as an enemy rather than a friend; hence the feeling that the less law there is, and the less effectively it is administered, the better. What will happen to the nation, to the States, and to the cities if this attitude cannot be changed? Is there any justification for this lawless attitude when we have universal suffrage?

9. A West Virginia statute excluding Negroes from jury service was declared unconstitutional. What provision of the Constitution was violated by this law?

10. "We have learned that it is pent-up feelings that are dangerous, whispered purposes that are revolutionary, covert follies that warp and poison the mind; that the wisest thing to do with a fool is to encourage him to hire a hall and discourse to his fellow citizens. Nothing chills folly like exposure to the air; nothing dispels folly like its publication; nothing so eases the machine as the safety valve." — Woodrow Wilson. Do you agree or disagree with Mr. Wilson? Why?

11. In 1798, after a series of most exasperating attacks had been made upon the government, Congress passed the Sedition Act providing a "fine and imprisonment for any one uttering or publishing false, scandalous, and malicious statements against the government." A Jerseyman named Baldwin violated the sedition law and was fined \$100 for expressing the wish that the wad of a cannon discharged as a salute to President Adams had hit the broadest part of the President's breeches. Do you consider this fine constitutional? (Constitution, First Amendment.)

12. Restrictions upon speech and the press increase during wars. During the Civil War speakers and editors who criticized the government and advocated stoppage of the war were imprisoned. President Lincoln replied to critics that he had taken an oath to support the Constitution and therefore had the right to do all things necessary to sustain the Constitution and the government founded upon it. He said, "Must I shoot a simple-minded soldier boy who deserts, while I must not touch a hair of the wily agitator who induces him to desert?"

The Espionage Act of 1917 and the Amending Sedition Act forbade speaking or printing anything that interfered with the success of our armed forces or intended to bring our military forces, flag, or form of government into contempt. These Acts were upheld by the courts, and many were imprisoned for such indirect thrusts as calling the war capitalistic, insisting that a referendum should have preceded war, and declaring conscription to be unconstitutional. Do you consider these restrictions justifiable? Give your reason for your answer.

13. Just to create excitement a man cried, "Fire" in a theater. This resulted in a panic where persons were injured. In a State whose constitution provides for freedom of speech, is this party liable in a damage suit brought by the injured persons?

14. States may forbid speakers or writers to urge the overthrow of the government by force. After President McKinley's assassination in 1901, New York enacted the criminal anarchy law. In 1920 the publisher of *The Revolutionary Age* in fervent language urged industrial disturbances and the overthrow of government through mass action. He was sent to the penitentiary, and in 1925 the United States Supreme Court upheld his conviction. What rights did the dissatisfied publisher have?

15. The alluring advertisements which advised men to smoke in order to keep fit, and women to smoke to keep slim were banned by the Federal Trade Commission. The cigarette corporation concerned promised to stop its "health" advertising in periodicals, radio, and other interstate media. Does this interference by the Federal government violate the First Amendment of the United States Constitution?

16. Mr. Dicey says, "Freedom of discussion is in England little else than the right to write or say anything which the jury, consisting of twelve shopkeepers, think it expedient should be said or written." Is this practically true in your State?

17. If an inmate of an insane asylum claims to be sane, how can he proceed to have himself released if the superintendent of the asylum will not permit him to leave?

18. The father of a nine-year old musical prodigy wants his son returned from the guardian who has educated the child, claiming that the guardianship was illegally obtained. What writ will bring the child into court for the determination of the legal rights?

CHAPTER XVI

TERRITORIES AND OTHER DEPENDENCIES

Classification of Territories. — All territories acquired by the United States before the Spanish-American War, with the one exception of Alaska, were adjacent and had been settled and developed by natives of this country and by European immigrants whose civilization and traditions were not fundamentally different from our own. So Congress extended to them a large measure of self-government and all the civil rights secured by the National Constitution. But the Spanish-American War brought under our control distant territory lying in the tropics and inhabited by peoples of different races who were inexperienced in self-government and unaccustomed to the same kind of civil and political rights enjoyed under our Constitution. Therefore in the famous "Insular Cases" the Supreme Court decided that the Constitution does not necessarily follow the flag, and that it bears three different relationships to (1) the Union of States, (2) incorporated territories, and (3) unincorporated territories.

All parts of the Constitution, of course, apply to the States; all parts, except such clauses as are clearly and expressly applicable only to admitted States, extend to incorporated territories — the formal or procedural guarantees as well as the fundamental guarantees; but only the fundamental parts of the Constitution extend to unincorporated territories, and the Supreme Court is gradually announcing what parts of the Constitution are fundamental as actual cases arise.

Alaska and Hawaii¹ are incorporated territories; therefore

¹ Constitutional authorities are not unanimous in classifying Hawaii as an incorporated territory, but its constitutional status is so analogous to that of Alaska that it is increasingly so considered.

Congress could not deny citizenship to persons born there under the jurisdiction of the United States, could not deny them the guarantees of the Bill of Rights, could not impose a tax upon them which was not uniform throughout the United States, and could not deny women the right to vote.

The territories or dependencies other than Alaska and Hawaii are classed as unincorporated territories. In these, Congress may grant or deny citizenship, the right to trial by jury, the right of women to vote, and may provide a system of taxes different from that in the States and incorporated territories, because the formal or procedural parts of the Constitution do not restrict Congress in legislating for them.

The fundamental parts of the Constitution apply to the unincorporated territories as well as to the States and incorporated territories. For example, Congress could neither establish the institution of slavery in any territory or dependency, nor unreasonably interfere with the freedom of speech or of the press; and it is not probable that the Supreme Court would uphold any statute which deprives one of life, liberty, or property without due process of law.

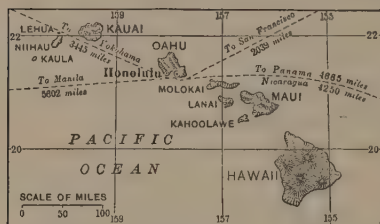
Hawaii. — In 1778 Captain Cook, an Englishman, explored the Hawaiian Group of Islands and named them "Sandwich Islands" in honor of his patron, the Earl of Sandwich. (The Earl of Sandwich was so fond of playing cards that he would not stop to eat. He had a servant bring him a slice of cold meat between two slices of bread so he could eat it while playing. This combination thus became known as a "sandwich.") However, the native name "Hawaii" has become the accepted name. When Captain Cook appeared the natives seem to have taken him for a god, but the outrageous conduct of his crew finally emboldened a native to kill him by stabbing him in the back with an iron dagger.

The foreign riffraff of explorers and whalers who visited the Islands during the next half century acted on the assumption that no laws, whether of God or man, were in force west of



Cape Horn. But the coming of the missionaries in 1820 brought civilization to the natives. The missionaries brought the higher ideals of conduct, a written language (English), rules of health, impartial advice to the rulers, and monogamy. Descendants of the missionaries remained in Hawaii, and at the end of the nineteenth century the Islands unsuccessfully sought annexation to the United States.

Upon the outbreak of hostilities with Spain in 1898 the value of island possessions as coaling stations and for other strategic purposes became very apparent. Therefore, the same year, the Hawaiian Republic, which had previously desired to become annexed to the United States, was admitted as the Territory of Hawaii.



HAWAII.

"The Crossroads of the Pacific."

of 1930 their population was 368,336. Of these the Japanese constitute a third, the Filipinos a sixth, while native Hawaiians, Chinese, Portuguese, and Americans constitute most of the remaining half. Immigration from China, Japan, and Korea to Hawaii is now prohibited in the same manner that immigration from these countries to the United States is prohibited; but Filipino immigration is unrestricted.¹

¹ According to the 1930 Census the composition of the Hawaiian population is as follows:

Hawaiian	22,636	Chinese	27,179
Asiatic Hawaiian	12,592	Japanese	139,631
Caucasian Hawaiian	15,632	Korean	6,461
Portuguese	27,588	Filipino	63,052
Other Caucasians	52,785	Other races	781
		Total population	368,336

In 1900 Congress framed laws for the government of Hawaii. These laws were very largely copied from those for the government of Oklahoma, New Mexico, and Arizona, which were then territories of the United States, and hence governed according to the wishes of Congress.¹ All the provisions of the Constitution and laws of the United States, except where special exception was made or where they were locally inapplicable, were extended to Hawaii.² Under this government American citizenship was extended to all Hawaiian citizens and Hawaiian citizenship to all resident American citizens.

The Hawaiian government is divided into three branches — the executive, the legislative, and the judicial. Members of both houses of the legislature are popularly elected, and because of this fact Hawaii is known as a *fully organized territory* of the United States.

The Chief Executive of the Territory of Hawaii is the *governor*. He is appointed by the President and Senate of the United States for a term of four years, and must be a citizen of the territory. He, in turn, appoints the chief administrative officers with the advice and consent of the territorial senate, and exercises the usual powers of a governor, including the veto of bills in their entirety or of separate items in appropriation bills.

The Legislature of the territory consists of a *senate* with fifteen members elected for the term of four years, and a *house of representatives* with thirty members elected for the term of two years. Regular sessions of the legislature are held biennially and are limited to sixty days. The legislature may enact any law which does not conflict with the Constitution, statutes, or treaties of the United States. Congress, however, has by statutes imposed restrictions upon the power of the legislature, especially in regard to financial matters.

¹ All of our forty-eight States were Territories before becoming States, except the thirteen original States and Maine, Vermont, Kentucky, West Virginia, Texas, and California.

² The Nineteenth Amendment to the United States Constitution brought woman suffrage to Hawaii.

The Judiciary of the territory consists of a Supreme Court with three judges, residents of the territory, appointed by the President and Senate for a term of four years, a United States District Court with two judges appointed by the President and Senate for a term of six years, and inferior courts created by the territorial legislature.

A Territorial Delegate to the government of the United States is elected by the people of the territory for each term of Congress.



HAWAII — WHERE THE RACES LIVE HARMONIOUSLY AND INTERMINGLE.

He is allowed a seat in the House of Representatives with a right to debate and serve on committees, but he cannot vote. His salary is \$10,000 a year.

Finances. — The Hawaiians pay Federal internal revenue taxes and customs on goods from countries other than the United States, just as they are paid by inhabitants of the 48 States. Of course there is no tariff on commodities from the United States to Hawaii or from the Islands to the United States.

The Coastwise Laws of the United States are applied to Hawaii; and this means that only United States vessels can carry freight or passengers between Hawaii and continental United States.

Education. — Hawaii is at the crossroads of the Pacific, and here the races meet without much racial prejudice. The public schools, using English exclusively, are merging Hawaiians, Americans, Japanese, Chinese, and Filipinos into loyal American citizens.

The Immigration Laws of the United States apply to Hawaii. That is, Orientals are excluded from Hawaii as from the United States, and Filipinos come freely as to the United States.



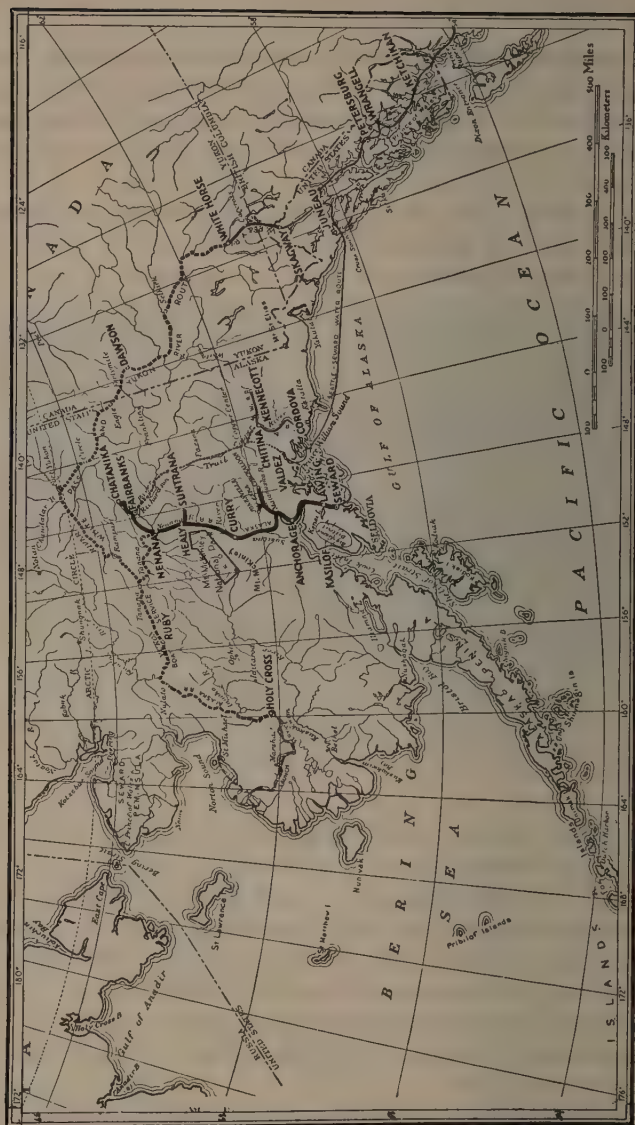
REINDEER FEEDING ON MOSS, SEWARD PENINSULA, ALASKA.

Reindeer, introduced by the Bureau of Education (now called "Office of Education") and protected by the Department of Agriculture, have increased rapidly, and now supply food, shelter, and transportation for the natives.

Europeans have to come under the limited United States quota and are thus practically excluded.

Alaska. — When Alaska was purchased from Russia in 1867 for only \$7,200,000 very little was known about it, and one congressman called it "the refrigerator of the United States." It was not realized that the parts of Alaska affected by the Japanese Current have more moderate winters than many of the northern States of our Union. The latitude is that of Norway and Sweden.

The area of Alaska is 586,400 square miles, and its population



ALASKA.

in 1930 was 59,278¹ — about half Indians (Eskimos). The inhabitants became citizens of the United States by treaty of cession, and in 1912 Congress created a *fully organized* territorial government. To-day the Territory of Alaska is governed in much the same manner as Hawaii. Its inhabitants pay taxes and come under the coastwise laws and the immigration laws of the United States like the inhabitants of our States.



PROPAGATING BLUE FOXES ON ALASKAN ISLANDS.

The Department of Agriculture is encouraging this new industry on islands owned by the government.

The Governor is appointed by the President and Senate of the United States for a term of four years and has the usual powers.

The Legislature consists of a *senate* with eight members popularly elected and a *house of representatives* with sixteen members popularly elected. It meets biennially for a period not exceeding sixty days and its powers are general except where specifically restricted. All Alaskan laws are valid until dis-

¹ Because of climatic conditions the Alaskan census was taken as of October 1, 1929, instead of April 1, 1930.

approved by an Act of Congress if they are originally passed within the limits of the organic act.

As an example of the restrictions imposed by Congress, neither the Hawaiian nor the Alaskan government may grant divorces to persons who have resided in the country less than two years.

It is interesting to note that one of the first Acts passed by the legislature of Alaska extended full suffrage to women, and that in 1916 the people voted for territory-wide prohibition by a large



FUR SEALS ON THE PRIBILOF ISLANDS.

majority, carrying every incorporated town but Engle, which cast a tie vote.

The Judiciary of Alaska consists of four United States district courts with judges appointed by the President and Senate for a term of four years, and of minor local courts presided over by commissioners whom the district judges appoint.

A Territorial Delegate is elected every second November to represent Alaska in the Congress of the United States. Like the territorial delegate from Hawaii he has a seat in the House of Representatives, debates, and serves on committees, but has no vote. His salary is \$10,000 a year.

Resources. — The resources of Alaska are great. It has gold, coal, copper, timber, water power, reindeer, fish, and seals.

North Pacific Sealing Convention. — The Pribilof Islands were made a government reservation in 1869, and since 1903 have been under the control of the Department of Commerce. The chief value of the Islands is due to the fur seals which resort there annually for breeding purposes. This herd is under the management of the Bureau of Fisheries. Previous to 1911 the herd of seals was being exterminated rapidly because gasoline launches with rapid-fire guns from Canada, Japan, and Russia, as well as the United States, were taking them out of the sea. That year a convention was signed by the United States, Japan, Russia, and Great Britain for Canada, providing that none of their subjects or citizens should take the seals from the high seas. The United States agreed to give 15% of the skins taken from the seals killed on the Pribilof Islands to Canada and 15% to Japan. Russia agreed to give 15% of those taken on her islands to Canada and 15% to Japan. Japan agreed to give 10% of those taken on her islands to Canada, 10% to Russia, and 10% to the United States. The convention is effective until terminated upon twelve months' notice on the part of one of the parties. Under this coöperative protective system the Pribilof Island herd has increased from 132,000 to more than 1,000,000, from which between half a million and a million dollars' worth of furs are taken each year. As the seals migrate north each spring

they are guarded by United States Coast Guard vessels. ///

A **Porto Rico.** — The United States took possession of the island of Porto Rico in 1898 during the Spanish-American War, and acquired it by treaty the following year. Its area

is 3435 square miles and its population in 1930 was 1,543,913,



including over a million whites, more than 300,000 mulattoes, and less than 100,000 Negroes.

Spanish is the language in the island, and in the interior not one person in a hundred can speak English. Spanish is the language of the public schools, but in many schools English is



PRESIDENT HOOVER BEING RECEIVED BY GOVERNOR THEODORE ROOSEVELT IN PORTO RICO.

taught as a subject. A member of the legislature may speak either Spanish or English.

The government of Porto Rico is based on Acts passed by Congress in 1900 and 1917. The later Act grants American citizenship to Porto Ricans and specifically extends to them the civil rights guaranteed by the United States Constitution, with minor exceptions.

The Executive power of the government is vested in a governor, appointed by the President and Senate for an indefinite term. The governor is assisted by seven heads of executive departments, of whom two (attorney-general and commissioner of education)

are appointed by the President, while the other five are appointed by the governor. These seven heads of departments form an executive council, assisting the governor in an advisory capacity and holding office for four years.

The principal financial officer is an auditor who is appointed by the President for a term of four years, but he is under the general supervision of the governor.

The Legislature of the Island is composed of two houses, a senate and a house of representatives. The *senate* consists of nineteen members, of whom two are elected from each of seven senatorial districts and five are elected at large. The *house of representatives* consists of thirty-nine members, one elected from each of the thirty-five districts and four elected at large. All are elected for a term of four years.

Legislation may be vetoed by the governor, but his veto may be overridden by a two-thirds vote of both houses. Where the veto is overridden the bill is referred to the President of the United States, who has an absolute veto. All laws must be submitted to Congress, which reserves the power to annul them but in practice has never interfered.

The Judiciary of Porto Rico has been almost completely Americanized in form, law, and procedure. The supreme court consists of five judges appointed for life by the President and Senate. Below this court are inferior courts with judges either appointed by the governor or elected by the people. There is also one United States district court with a judge appointed by the President and Senate.

A *Commissioner*, elected by the voters every four years, represents the Island in Washington. Unlike the territorial delegate, he has no statute right to a seat in the House, but by courtesy the House has given him the privilege of speaking and of serving on committees. He receives a salary of \$10,000 per annum.

The Finances of Porto Rico are not handled like those of the incorporated territories (Alaska and Hawaii). Instead of pay-

ing the internal revenue taxes levied by Congress, the local legislature levies these taxes for Porto Rico, including the income tax. Commodities between Porto Rico and the United States do not pay tariff duty, but articles entering the United States from Porto Rico must pay the United States internal revenue tax, and articles from the United States entering Porto Rico must pay the Porto Rican internal revenue tax. Articles entering Porto Rico from countries other than the United States pay the same tariff duties that they would pay if entering the United States. All of these taxes go into the treasury of the Porto Rican government. Three fourths of this revenue would go into our national treasury if collected by an incorporated territory.

Porto Rico is not allowed to impose an export tax, and she cannot collect an import tax unless the tariff law of the United States levies it. Porto Rican bonds are tax exempt in the United States; but Porto Rico cannot issue bonds in excess of 10% of her assessed property valuation.

Trade. — During the last quarter century of the Spanish régime the total foreign trade of Porto Rico remained stationary, with imports exceeding exports. During the first quarter century under the American régime her foreign trade increased 1000%, with the balance of trade in her favor. Nine tenths of this trade is with the United States. This increase was due to the assurance of a stable government and the purchase and irrigation of rich sugar lands by American corporations. From the standpoint of the Porto Rican it is unfortunate that most of the profits from sugar plantations go to United States capitalists. As there is a great oversupply of labor, the laborers receive only from 30 cents to \$1.00 a day during less than half the year.

Poverty. — Writing in 1897, a high authority in Porto Rico had the following to say about the Porto Rican laborer: "With a pale face, bare feet, lean body, ragged clothes, and feverish look, he walks indifferently, with the shadows of ignorance in his eyes,

dreaming of the cock fight, the shuffle of the cards, or the prize in the provincial lottery."

During the American régime the school enrollment has increased from 27,000 to over 200,000; but unfortunately half of the children of school age are out of school for want of funds. Infant mortality in the islands is twice that of the United States, tuberculosis is prevalent, and hundreds of thousands are incapacitated by the hookworm disease, which cannot be stamped out until the people can afford better sanitation for their premises and shoes for their feet.

The government is making a small beginning in reducing poverty by purchasing land and creating homesteads of from 2 to 20 acres and putting a practical agricultural demonstrator in each colony of 400 families. Overpopulated Porto Rico is not rich in natural resources, but it has rich soil, a climate for all-year production, water power, cheap water transportation to the West Indies and the United States, an open market in the United States, and an assured stable government.

Special Privileges Enjoyed by Porto Rico. — In recognition of the poverty of the masses, Porto Rico is not required to pay any taxes into the United States Treasury. Because her bonds are tax exempt in the United States, she can borrow money at low rates of interest and her central and municipal governments thus save a million dollars a year. The products of the country save about \$50,000,000 a year by not having to pay the United States tariff duties. Services performed in Porto Rico by the administrative departments of the government of the United States, costing about \$5,000,000 a year, are paid by the United States. The income tax of between \$1,000,000 and \$2,000,000 a year is retained by Porto Rico instead of being sent to Washington.

Porto Rico's Grievances against the United States. — Porto Ricans want a local, elected governor and a cabinet appointed by him and confirmed by the local senate. They would also have all judges of the supreme court native Porto Ricans, selected

in a manner determined by the local legislature, and given the same jurisdiction as that of incorporated territories. The local legislature desires power to impeach all administrative officials.

The Porto Ricans would like to be exempted from the laws passed by Congress to the same extent that the Philippine Islands are exempted. They complain that the United States tariff on raw food supplies makes many of them too expensive for the laboring population of Porto Rico to buy. They further complain that the United States tariff fails to protect various Porto Rican products which the United States does not produce and which therefore do not need protection in the United States. The Porto Ricans desire to collect their tariff and internal revenue and enforce the prohibition law themselves.

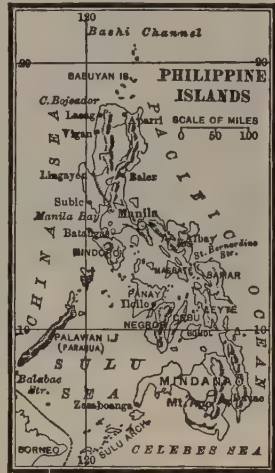
Before 1917, instead of an elected senate, Porto Rico had an executive council appointed by the President of the United States. With this fact in mind, Antonio R. Barcelo, president of the Porto Rican senate, made the following statement: "Prior to 1917, so-called American interests obtained such legislation as was necessary to organize their corporation system. Roads were built along the coast where sugar mills stood, and such credit as we then had was exhausted by bond issues sold to carry out these improvements, which included the great south coast irrigation system constructed for the benefit of the sugar industry. While these matters met with an easy reception in the executive council, the door was closed to almost all legislation tending to favor our agriculture, and to extend education, sanitation, and road construction into the mountains, where the farmers of the interior of the island demanded facilities for transportation for their products, and appropriate schoolhouses for their children. Under this system our budget never exceeded \$4,000,000, and taxation was always such as the above-mentioned interests wanted.

"The wise restriction enacted by Congress limiting the acquisition of land by corporations to 500 acres, was scoffed at by them to the full knowledge of the government. This was

true to such an extent that the corporations practically became the owners of all the best farms in the island, thus displacing the small farmer and establishing throughout the country the most unbearable monopoly of all businesses and industry.

“Dragging a few moneyed persons of the island after them, they plotted to avoid payment of taxes and to block new loans. In this way they created a deficit in their Treasury, which held us up on our march to progress. The condition thus caused has brought out clearly one of the most important financial problems confronting our people. While a chosen few grow richer and richer and gain absolute control of production and of business, both of which they control by the power of money, the majority of the people live in the direst need and abjection as day by day they watch the growth in Porto Rico of the feudal system of the Middle Ages, under which the great land-holding lord was the arbiter of the lives and property of his serfs, who received but such mercies as their lord was willing to grant.”

The Philippines.—The United States took possession of the Philippine Islands in 1898 during the Spanish-American War, and they were ceded to the United States the following year. This archipelago consists of thousands of islands with a total area of 114,400 square miles, and a population now estimated at between twelve and thirteen millions. The population increased 35 per cent from 1903 to 1918; and according to the census of 1918 (the last taken) there are besides the native Filipinos 3945 Spaniards, 5774 Americans, 7806 Japanese, and 43,802 Chinese. The Chinese, who are the merchants and money-lenders of the Islands, are now excluded by Philippine law.



The Spaniards Christianized the natives and set up the only Christian nation in the Orient. According to the 1918 census the Filipinos are given the following religious classification :

Christians (mostly Roman Catholics)	9,463,731
Mohammedans (Moros — named after the Moors of Spain)	443,037
Pagans (Negritos and Hill Tribes)	508,596
Other religions	29,717

There are 87 languages and dialects spoken in the Islands, but all higher education was given in Spanish until the Islands were



FILIPINO STUDENTS ATTENDING OREGON STATE COLLEGE.

Of the Filipinos the late Governor-General Wood said : "The whole people have a consuming thirst for education."

transferred to America. To-day both Spanish and English are official languages. All public schools are taught in English with texts printed in English. The English language may become the commercial and literary language, as well as official, within a generation.

There are now more than a million pupils in school taught by some three hundred Americans and more than twenty thousand

Filipinos. Ten per cent of the total population is in school as compared with twenty per cent in the United States.

Present Government. — The Filipinos are nationals of the United States but not citizens. They enjoy most of the privileges of citizens, such as protection when traveling abroad and the right to enter the United States, but all parts of the United States Constitution do not apply to the Philippine Islands.

Originally Congress provided a government for the Philippine Islands in which the natives played a very minor part, but in order to test their ability for self-government Congress and the President have gradually intrusted nearly all offices to them.

∧ The present government of the Philippines is provided for by the Jones Act of Congress (1916), which is practically the constitution of the Islands. This Act provides that the laws of Congress hereafter enacted shall not apply to the Philippine Islands except when they specifically so provide, and extends general legislative power to the Philippine legislature with certain fundamental restrictions enumerated therein. The preamble of this Act further states that it is the purpose of the United States to recognize the independence of the Filipinos "as soon as a stable government can be established."

The Filipinos desired a responsible ministry and form of government like that of Canada,¹ where the governor-general is a mere figurehead. A responsible ministry was not possible under the Jones Law, but an approach has been made in two respects: the houses of the legislature question the ministers on the floors of the houses; and in 1917 Governor-General Harrison began to hold weekly cabinet meetings attended by the six ministers, the speaker of the house, and the president of the senate, where governmental policies were discussed by the real leaders of the government.

When General Wood succeeded Governor-General Harrison, he withdrew a portion of the self-government enjoyed under

¹ The Canadian government is a responsible government like that of Great Britain. See Question for Discussion, No. 7, Chapter II.

Governor Harrison. And after a controversy in 1923 all of the Filipino members of the cabinet handed in their resignations, hoping that by this action they might force the Governor-General to concede to them the determination of policy. General Wood accepted their resignations and continued the administration with the aid of American army officers until his death.

Henry L. Stimson succeeded General Wood as governor-general of the Philippines and in 1928 re-created the Council of



MALACANANG PALACE, MANILA, P. I.

This is the Executive Hall of the Governor-General.

State "to advise the governor-general on such matters of public policy as he may from time to time lay before it." It consists of the president of the senate, the speaker of the house, the majority floor leader of the senate, the majority floor leader of the house, and the heads of the six executive departments.

In 1929 Mr. Stimson became Secretary of State and Mr. Dwight F. Davis, formerly Secretary of War, became governor-

general, and continued the cabinet as re-created by Mr. Stimson.

The Executive branch consists of the governor-general, the vice-governor, the heads of the six executive departments, and an auditor. The governor-general is appointed by the President and Senate of the United States. His position in the Philippine government is very similar to the President's position in the government of the United States. The vice-governor is also appointed by the President and Senate, and acts as governor in case of the latter's inability to act. He is head of the executive department of public instruction, which consists of the bureaus of education and health. The other executive departments are created by the Philippine legislature which has provided that the heads must be Filipinos. They are appointed by the governor-general with the consent of the Philippine senate. The auditor, who is appointed by the President, safeguards the revenues of the central and local Philippine governments.

The Legislature consists of a senate and a house of representatives. The senate is composed of twenty-four members chosen in twelve districts for terms of six years. The house of representatives is composed of ninety members chosen in ninety districts¹ for terms of three years. Sessions are held annually. Every bill that passes the two houses requires the approval of the governor-general unless passed over his veto by a two-thirds vote of each house, in which event it becomes law if approved by the President of the United States. Public land, timber, mining, tariff, immigration, currency, and coinage bills must receive the approval of the President. All of the laws passed by the legislature must finally be reported to Congress, which may annul them but has never done so.

¹ Two senators and nine representatives are appointed by the governor-general for indefinite terms to represent the non-Christian tribes, which were unrepresented before 1916. All other members of the legislature are elected by a restricted suffrage.

The Judiciary consists of a supreme court of nine judges appointed by the President and Senate, and a number of judges for courts of first instance and justices of the peace for each locality appointed by the governor-general and the Philippine senate. If an aggrieved party petitions, the U. S. Supreme Court may review a final decision of the Philippine Supreme Court when the case involves the Constitution, a statute, or a treaty of the United States, or an amount exceeding \$25,000.

Two Commissioners, elected by the Philippine legislature for terms of three years, represent the archipelago in Washington. These representatives have no seats in Congress, but by courtesy of the House they have the privilege of debating, and receive a salary of \$10,000 per annum.

The Philippine Demand for Independence. — *Purposes of the American Régime.* — When the Philippine Islands were transferred from Spain to the United States in 1899, President McKinley said: "The Philippines are ours not to exploit, but to develop, to civilize, to educate, to train in the science of self-government."

Until 1901 the Islands were under military government, but in that year a Philippine Commission was appointed with William Howard Taft as chairman. One of the first acts of this Commission was the importation from the United States of a thousand school teachers.

In 1907 this Commission became the upper house of a legislative body, and a popularly elected Philippine Assembly was added. When Wilson became President in 1913 he increased their degree of self-government by appointing a majority of Filipinos on the Commission.

In 1916 Congress passed the Jones Act, which further liberalized the government of the Philippines by replacing the Commission with a popularly elected Senate. The preamble of this Act says:

"It is, as has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine

Islands and to recognize their independence as soon as a stable government can be established therein."

Home Rule under Governor-General Harrison. — Though the Jones Act did not alter the preceding practice of separation of powers between the legislative and executive branches of the government, in 1918 Governor-General Harrison created an extra-legal body called the Council of State. It consisted of the president of the senate, the speaker of the house, and



THE FIRST PHILIPPINE ASSEMBLY, 1907.

six heads of administrative departments. Mr. Harrison then voluntarily ceded much of his power to this Council, minimizing himself to a sort of figurehead like the governor-general of Canada.

When Mr. Harrison became governor-general in 1913 Filipinos held 72% of the civil service positions; when he left in 1921, they held 96% of these posts.

The Filipinos, as individuals, do not have the capital to develop large industries; but Mr. Harrison permitted the Philippine government to purchase a railroad, establish a bank-

ing system, establish sugar-mills to grind for a number of plantations, open coal mines, and operate a cement plant.

President Wilson, in his last message to Congress in December, 1920, said: "The Philippine Islands have succeeded in maintaining a stable government since the last action of Congress in

their behalf and have thus fulfilled the condition set by Congress as precedent to the consideration of granting independence to the Islands."

Change of Policy under Governor-General Wood.— President Harding appointed General Leonard Wood as Governor-General of the Philippines. When he took office he pointed out that the Filipinos had lost large sums of money in operating government enterprises through inefficiency, petty graft, and even dishonesty. And, believing that Governor-General Harrison had pre-



THREE FILIPINA MISSES AT "SWEET SIXTEEN."

maturely conceded many powers to the Filipinos, he applied a strict interpretation to the Jones Act.

When Governor-General Wood exercised his authority and vetoed a number of their bills, the Filipino leaders resented it. In July, 1923, when General Wood insisted upon the retention of an American secret service officer in Manila, all the Filipino members of the Council of State handed in their resignations, hoping that by this action they might force him to concede to them the determination of governmental policy. Their resigna-

tions were promptly accepted, and he governed with the assistance of military aides until his death in 1927.

Independence Movement. — Ever since the repeal of the law making it a crime to advocate independence (1907) the *Nationalista* party has worked to secure independence by constitutional means. It has been continuously in control of the government. Now the *Democratas*, the minority party, also stands for immediate independence.

In 1924 the Filipino leaders raised an independence fund of several hundred thousand dollars,¹ and sent an unofficial commission to the United States. They petitioned the President to recall General Wood, whose rule they termed arbitrary and militaristic. They attended the national party conventions to urge independence planks, and succeeded in getting the Committee on Insular Affairs of the House of Representatives to report favorably on granting temporary self-government and ultimate independence to the Philippines. The bill, however, passed neither house of Congress and the Commission returned to the Islands.

President Coolidge's Attitude towards Independence. — In reply to an independence resolution passed by the Philippine Legislature, in February, 1925, President Coolidge said: "If the Filipino people cannot coöperate in the support and encouragement of as good an administration as has been offered under General Wood, their failure would be rather a testimony of unpreparedness for the full obligations of citizenship than an evidence of patriotic eagerness to advance their country."

The Philippine Legislature later passed a bill providing for a referendum to show what proportion of the Filipinos favor independence. Governor-General Wood vetoed the bill. The Legislature passed it over his veto, hence it came to President Coolidge for his final determination. The President sent

¹ General Harrison signed a bill appropriating \$500,000 for independence propaganda, but General Wood refused such appropriations from the public treasury.

Colonel Carmi A. Thompson to the Philippines to investigate and report to him.

Thompson's Report. — On December 4, 1926, Colonel Thompson recommended to President Coolidge that the granting of absolute independence be postponed for some time to come, but that further self-government be granted as conditions warrant. He further recommended :

(1) That the United States establish an independent department for the administration of the Philippines and other overseas territory. (The Philippines are now administered through the War Department.)

(2) That the Federal reserve system be extended to the Philippines, and that one or more Federal land banks be established there to provide loans at reasonable interest rates to the farmers, who now pay from 12 to 30 per cent interest.

(3) That the United States Department of Agriculture establish experiment stations in the Islands to develop their agricultural resources.

(4) That the Philippine government withdraw from private business ; and that the legislature amend the land laws so as to permit the sale of more than 2500 acres of public land to a corporation and thus attract capital for the development of the production of rubber, coffee, and other tropical products.

The President Refuses the Referendum. — On April 7, 1927, the President vetoed the Philippine independence referendum bill, and summarized his reasons for opposing the proposition as follows :

“ The plebiscite, under conditions provided or, in fact, now possible, would not accomplish the stated purpose. The result of the vote would be unconvincing.

“ It might create friction and disturb business, slowing down progress.

“ It might be taken to mean its approval by the United States or as an act likely to influence the United States.

“ Finally, I feel that it should be disapproved because it is a part in the agitation in the Islands which, by discouraging capital

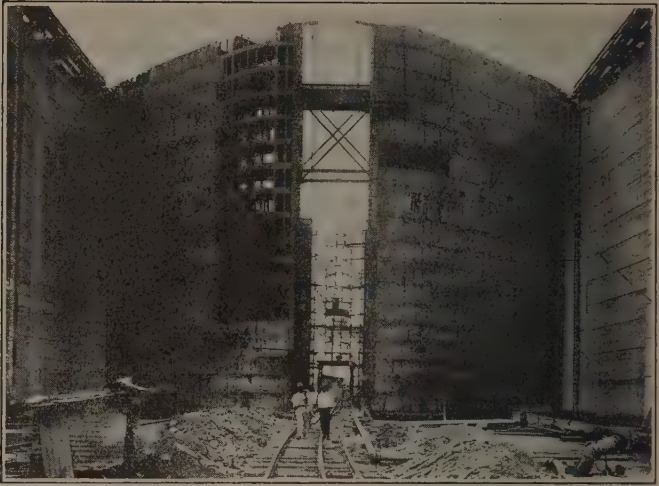
and labor, is delaying the arrival of the day when the Philippines will have overcome the most obvious present difficulty in the way of its maintenance of an unaided government. The people should realize that political activity is not the end of life, but rather a means to attain those economic, industrial, and social conditions essential to a stable existence."

Economic Trends towards Independence. — We used to hear that American commercial self-interest would block Philippine independence. But to-day capitalists who own sugar plantations in Hawaii and Porto Rico, as well as American growers, want independence so tariff will be imposed on Philippine sugar; American farmers want independence because coconut oils compete with their dairy and cottonseed products as long as they enter the United States tariff free; and American labor wants independence so Filipinos cannot come to America to compete.

Filipinos are nationals of the United States and now may enter the country unrestricted as to numbers. Until a decade ago very few Filipinos came to this country; but after the exclusion of Japanese in 1924 they came to take the places formerly filled along the Pacific Coast by Japanese. The following figures show the extent of their migration to this country.

YEAR	FROM THE PHILIPPINES	FROM HAWAII	TOTAL
1922 . .	241	98	339
1923 . .	457	937	1,394
1924 . .	1,833	2,118	3,951
1925 . .	1,352	835	2,187
1926 . .	3,918	2,888	6,806
1927 . .	6,793	2,254	9,047
1928 . .	4,681	1,515	6,196
1929 . .	8,689	2,654	11,360
1930 . .	5,779	2,363	8,173
1931 . .	3,395	1,178	4,606
Total			54,059 ¹

¹ Total Filipinos in the United States in 1930, 45,208, of whom only 2940 were women.



HOW THE PANAMA CANAL WAS CONSTRUCTED.

Before this big lock gate is opened, the water is drained out through huge underground pipes.



DREDGING A 35-TON ROCK FROM THE PANAMA CANAL.

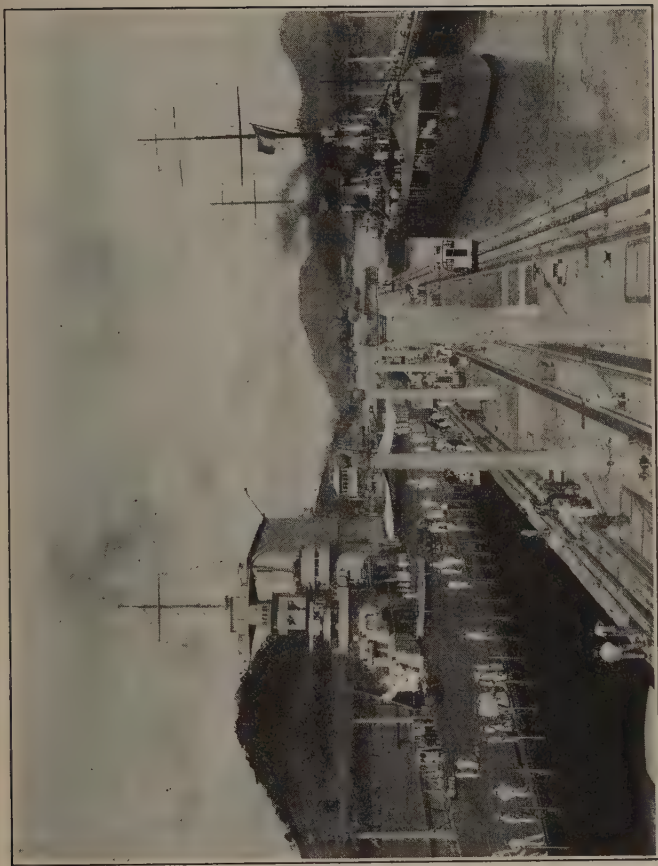
Congress has power to exclude Filipinos without granting the Islands independence, but the American sense of justice would hardly permit this procedure.

The Hawes-Cutting Bill, introduced by Senators Hawes of Missouri and Cutting of New Mexico, was the outstanding independence measure before the Seventy-first Congress. When this term of Congress ended March 4, 1931, the bill had not been voted upon, so it died and will have to be introduced in the Seventy-second Congress for further consideration.

The Hawes-Cutting Bill would authorize a Philippine convention to draft a constitution for a free and independent government, providing for a transitional period of five years, during which the United States would control foreign affairs for the Islands and intervene if necessary to maintain a stable government. The United States would appoint a commissioner to supervise the Philippine administration during this transitional period, and trade relations would be based upon a sliding scale. For the first year free trade relations with America would continue; during the second year the Philippines would levy upon imports from the United States 25 per cent of the duty levied on goods from other countries, while the United States would impose an equal duty on products from the Philippines; in the third year the proportion would be increased to 50 per cent, and in the fourth to 75 per cent; and during the fifth year full duties would be charged. Within six months after the termination of the fifth year a plebiscite would be held on the subject of Philippine independence. If the Filipinos voted for independence, the United States would withdraw its jurisdiction over the Islands, providing for certain safeguards in a permanent treaty with the United States. These would protect property rights and debts and provide naval stations for the United States.

△ **Panama Canal Zone.** — The occupation, use, and control of a zone five miles wide on each side of the Panama Canal was granted by Panama to the United States by treaty in 1904. The Zone includes the Chagres River, where dams have been built





U. S. AÉROPLANE CARRIER *SARATOGA* AND FRENCH CRUISER *JEANNE D'ARC* IN PEDRO MIGUEL LOCK, PANAMA CANAL.

Note the crow's nest and smokestack to the side of the *Saratoga* to provide a long aéroplane runway.

to store water during the rainy season as a supply for operating the locks during the dry season; and it also includes all of the lake created by the Gatun Dam. If this part of the lake which juts into the Republic of Panama were not included in the Zone, enemies might float vessels on this lake to menace the locks. The present permanent government for this zone was provided for by an Act of Congress in 1912. The government is placed in the hands of the President of the United States. With the consent of the Senate he appoints a governor for the term of four years, and without the consent of the Senate he appoints other officials for an indefinite term. There is no legislature for the zone, but there is a district court with a judge appointed by the President for four years and local courts conducted by justices appointed by the governor. Because of the President's influence in governing the Zone it has been called a "crown colony."¹

The Canal cost us about \$400,000,000, including \$10,000,000 paid to Panama and \$25,000,000 subsequently paid to Colombia. In the fiscal year 1930-1931 the tolls (see page 192, note 1) amounted to \$24,645,456. The cost of operation, including \$250,000 paid the Panama Republic annually, is now nearly \$9,000,000 a year. This leaves a profit of about \$16,000,000, or 4 per cent on the investment.

Other Insular Dependencies. — The Virgin Islands,² consisting of St. Croix, St. Thomas, St. John, and fifty-odd small and mostly uninhabited islands, were purchased from Denmark by treaty in 1917 for \$25,000,000. These inhabitants are governed by the President through the Navy Department, and in 1927 United States citizenship was extended to them.

Guam was acquired in 1899 as a result of the war with Spain.

¹ The population of the Canal Zone (1930 census) is 39,467. Civilians (white, 7375; Negro, 20,113; other colored, 196) number 27,682 (11,785 residing in military and naval reservations).

² Called "Virgin Islands" by Columbus after Saint Ursula and her eleven thousand virgins, because the islands were too numerous to name individually.

The Samoan Islands were acquired by treaty in 1900. Each of these is commanded by a naval officer.

Wake, Midway, Howland, Baker, and Guano islands are claimed by the United States, but as they are totally or practically uninhabited they need no government.

Protectorates. — Since the Spanish-American War the United States has become a sort of godfather for Cuba, Panama Republic, Santo Domingo, Haiti, and Nicaragua. They are independent countries, at least in name, but in one way or another they have shown inability for self-government and when necessary we intervene to prevent intervention by European nations in violation of our Monroe Doctrine.

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QUESTIONS ON THE TEXT

1. Does the United States Constitution follow the flag?
2. What parts of the Constitution extend to incorporated territories? to unincorporated territories? Which territories are incorporated? What do you mean by incorporated?
3. What did the missionaries take to Hawaii?
4. What was the main reason for annexing Hawaii in 1898?
5. The government of Hawaii is somewhat similar to that of what former territories of the United States?
6. Are Hawaiians American citizens?
7. Into what three branches is the Hawaiian government divided?
8. How is the governor of Hawaii chosen? the senate? the house of representatives?
9. What laws may be enacted by the legislature of Hawaii?

396 TERRITORIES AND OTHER DEPENDENCIES

10. By whom is the territory of Hawaii represented in Washington? May he vote?

11. What language is used in Hawaii?

12. Do Hawaiians pay Federal taxes as citizens of States do?

13. Do our immigration and coastwise laws apply to Hawaii?

14. How and when did the United States acquire Alaska?

15. How is the governor of Alaska chosen? the senate? the house of representatives?

16. How is Alaska represented in Washington?

17. Explain the North Pacific Sealing Convention.

18. How and when did the United States acquire Porto Rico?

19. How is the governor of Porto Rico chosen? the executive council? the senate? the house of representatives?

20. How is Porto Rico represented in Washington?

21. What financial advantages have been granted Porto Rico?

22. Is the 1000% increase in trade between Porto Rico and the United States more to the advantage of Porto Ricans or residents of the United States?

23. Why is there so much poverty in Porto Rico?

24. What are Porto Rico's political and economic grievances?

25. How and when did the United States acquire the Philippine Islands?

26. What religion predominates in the Philippines?

27. How many languages are spoken in the Philippines? Which are official? Which is used in the public schools?

28. Are Filipinos citizens of the United States?

29. How is the governor-general of the Philippine Islands selected? the senate? the house of representatives?

30. Under what condition is independence promised the Philippines?

31. Who constitute the Philippine cabinet?

32. What Philippine bills must receive the approval of the President?

33. How are the Philippine Islands represented in Washington?

34. Explain the Philippine movement towards independence.

35. How and when did we acquire the Panama Canal Zone?

36. Explain the financial status of the Panama Canal.

37. How is the Panama Canal Zone governed?

38. What other insular dependencies does the United States own?

39. Name the foreign possessions of the United States in the order of their degree of local self-government.

40. What Latin-American countries does the United States treat as protectorates? Why?

QUESTIONS FOR DISCUSSION

1. What should be our attitude towards Orientals born in Hawaii if we expect them to be loyal citizens?

2. The Hawaiians have petitioned Congress for statehood. Do you favor granting it?

3. The population of Hawaii increased from 255,000 in 1920 to 368,000 in 1930. Much of this increase is due to Japanese births in the Islands and Filipino immigration to the Islands. To increase the proportion of Caucasians in the Islands, would you favor admitting Europeans unrestricted as to numbers? If this were done, should we grant them citizenship in five years and allow them to come freely to the United States, or should the first generation be denied citizenship?

4. Mr. Harding in his last public speech delivered at Seattle on Alaska said, "Alaska is destined for ultimate statehood. In a very few years we can well set off the panhandle and a large block of the connecting southeastern part as a State. This region now contains easily 90 per cent of the white population and of the developed resources." Would you favor granting Alaska statehood now?

5. The Porto Rican legislature has passed a bill favoring the election of a governor by the people. If you were a congressman, would you vote for granting this request? Why?

6. The Jones Act promises independence to the Filipinos when they establish a stable government. They claim "a stable government is one elected by the people, supported by the people, capable of maintaining order, and of fulfilling its international obligations." Governor-General Wood said: "A stable government is a government under which capital seeks investment at normal rates of interest." Which definition do you think Congress should follow?

7. Explain how the following quotation from Manuel L. Quezon, the Philippine leader for independence, applies to our relationship with the Islands: "We are like a young married couple starting out in life. The mother-in-law is helping run their establishment. She may be a perfectly admirable woman, kind, generous, affectionate, wise, and the best cook on earth, but the young household does not want her, ought not to have her, and can never enjoy the happiness that comes of self-support, self-expression, and self-control, until the dear old dame has withdrawn her hands from the affairs of the new home. A block down the street, or across the river, the household thinks of her with profound affection and regard, maintains the friendliest association and is always her warmest friend and champion, but it does not want her forever stirring the pot and dominating the bill of fare."

8. Filipinos advocate independence for the Islands and advance the following arguments:

- (1) The busy President and Congress neglect these distant islands.
- (2) The Philippines are not allowed to impose a tariff tax on commodities produced in the United States.
- (3) If independence is granted now while the Filipinos are grateful for what we have done for the Islands, we will have a permanent friend in the Orient.
- (4) Even if the American Flag does promote material prosperity, they prefer not being a "bird in a gilded cage."
- (5) Experience is the best teacher. We learn to do by doing.

To these arguments the following counter arguments are made:

- (1) The Filipinos are the only Orientals privileged to come to the United States unrestricted.
- (2) They are protected against foreign nations at the expense of the United States.
- (3) They can borrow money in the United States at a low rate of interest because their bonds are exempted from taxation by our central and local governments, and because we insure a stable government in the Islands.
- (4) Free trade gives the Filipinos more than a hundred million customers for their products; and without free trade their great sugar and tobacco industries would be practically destroyed.
- (5) Assured protection of property under an assured American régime would bring capital to the Islands.

In view of these facts, which of the following policies towards the Islands would you favor?

- (1) Continue with the present government.
- (2) Send an American governor-general to give advice, but let them have their own way, thus giving them practical independence like the Dominion of Canada.
- (3) Grant independence subject to certain restrictions like the three restrictions placed upon Cuba by the United States: (a) Forbid the alienation of territory to any foreign country; (b) limit the amount of debt it may contract; (c) reserve the right to intervene for the protection of life and property.
- (4) Grant them independence as a neutralized country like Switzerland by having such countries as Great Britain and Japan enter an agreement with us jointly to guarantee their independence.
- (5) Drop them into the "Sea of Independence" and let them swim to the "Isle of Success" if they can.

(6) Grant independence under the provisions of the Hawes-Cutting Bill.

9. Some Americans have urged that our Congress repeal the Philippine land law restricting the sale of more than 2500 acres of public land to a corporation. Why does the Philippine Legislature thus restrict the sale of public land? Do you think the Philippine Legislature itself should authorize the sale of larger tracts to corporations?

10. Colonel Thompson recommended that we retain the Philippine Islands for the present but perform various services for them. How would the United States profit by such a policy in the long run?

11. Why do you suppose Colonel Thompson recommended a separate department to administer our overseas territory?

12. William H. Taft called the Filipinos "brothers," but the American soldiers replied with the song, "He may be a brother of William H. Taft, but he ain't no brother of mine." Do you think the United States can ever be a successful colonizer with this superior attitude?

13. Upon his return from the Philippine Islands, Senator Hiram Bingham said, "I was greatly surprised in Manila at finding that American officials and other members of the Army and Navy Club there were not allowed to take prominent Filipino citizens and office holders to lunch or dinner at the exclusive club. I understand the Filipinos are not eligible for membership and are not welcomed to cross its threshold as the guests of members. This, it seems to me, is a very serious and great mistake. . . . If the cultured and prominent Filipinos were received socially by the leading army and navy families one of the principal causes for the agitation of Philippine independence would be at an end. I think it a great mistake that the wives of the leading Filipino officials are not received socially by the wives of the leading American officials, with the exception of the Governor-General. If the spirit of inter-racial equality which exists in a marked degree in the Hawaiian Islands prevailed in Manila I believe that many of our present problems in the Philippines could be readily solved." What two groups of people from the United States established these differences in racial precedents in these two dependencies?

14. Because of better sanitation, better government, and free trade with the United States, the towns of Balboa and Cristobal have grown in competition with Panama City and Colon, the two cities located in the Panama Canal Zone that remained under the jurisdiction of the Republic of Panama. The Panamanians claim that they did not contemplate this use of the Canal Zone for commercial purposes and urge us to prevent the development of industry therein. What do you think of their contention?

CHAPTER XVII

POLITICAL PARTIES AND POLITICS

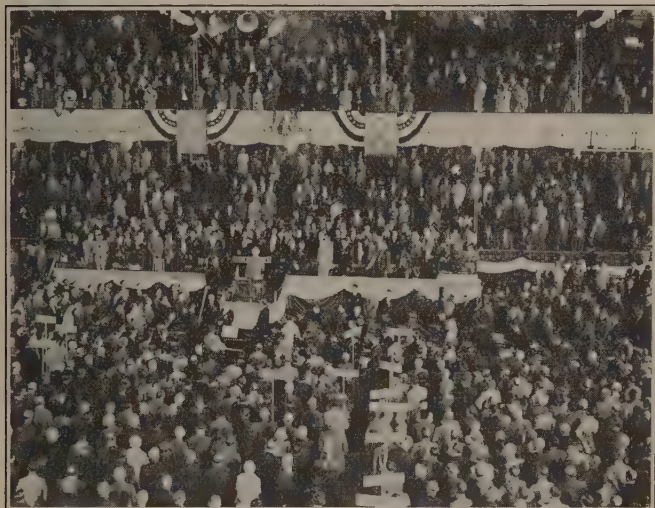
National Parties. — A political party is an organization of many people, united by common principles or a common policy, and having for its immediate end the control of the government through the carrying of elections and the possession of office. A political organization, like any other organization, perpetuates itself by representative men known as *committeemen*.

For each of the national parties there is a *National Committee*. This committee elects a *National chairman*, and he is the real party manager. In each State there is a *State Committee* and a *State chairman* to coöperate with the National Committee and its chairman. It is the duty of these party representatives to promote harmony, to arouse enthusiasm by speeches and literature, to arrange for the selection of party candidates for public office, to instruct the voters concerning the merits and virtues of their own principles and leaders and the mistakes of their opponents, to enlist new voters such as naturalized foreigners — in short, to capture the government.

An old party may have no principles differing from the opposing party, and may be said to be "looking for an issue." "A party may hold together long after its moral life is extinct. . . . Parties go on contending because their members have formed habits of joint action, and have contracted hatreds and prejudices, and also because the leaders find advantage in using these habits and playing on these prejudices. . . . The mill has been constructed and its machinery goes on turning even when there is no grist to grind."¹

¹ P. Orman Ray, "An Introduction to Political Parties and Practical Politics," page 7.

However, when a political party with a large membership has been in control for a long period and has had no formidable party to oppose it, sectional or economic differences of opinion tend to "split" it into "factions." During Taft's administration the Republican party split into two factions, — the "insurgents" and the "standpatters." Their differences of opinion were



International News.

THE NATIONAL REPUBLICAN CONVENTION IN 1928.

irreconcilable, and the insurgents, after "bolting" the Republican Convention of 1912, organized the Progressive party with Roosevelt as its leader.

The functions of political parties are :

1. To frame platforms.
2. To nominate candidates so that the successful one may be the choice of a large number of voters.
3. To educate the voters by speeches and literature.
4. To arouse interest in public issues.

5. To create a loyal spirit among the legislators which will cause them to sacrifice their individual views for the sake of a legislative program.
6. To censor the opposing party and expose its shortcomings.
7. To coördinate the different branches of government.

Therefore, political parties are useful to democratic government, and as there is no provision for them in the Constitution of the United States they have developed as extra-legal institutions.¹ Laws distinctly recognizing the existence of parties and attempting to regulate their activities are rather recent, but State primaries provided by law have in most States displaced the old extra-legal conventions.)

Party Platforms. (A party platform is a statement of principles or policies for which the party stands.) A National party platform is framed every four years by the Committee on Resolutions at the National Convention of the party. Each party platform contains a statement of its principles and policies; but if the delegates cannot agree upon specific problems, non-committal planks are adopted to avoid offending any large faction of the party. The value of a platform depends upon the party leaders and candidates who indorse it.

Summary of the 1928 Platform of the Republican Party. —

Tariff: Protective tariff that gives full benefit to farmers.

Transportation: Federal aid to highways; new railway laws necessitated by the new character of competition in transportation; development of inland and inter-coastal waterways; government ownership and operation of commercial ships opposed, but encouragement of a privately owned merchant marine that would be useful in case of war favored.

Labor: Collective bargaining by agents of labor favored; and "excessive" use of injunctions in labor disputes opposed.

¹ *Extra-legal* means outside of the law; not illegal or contrary to law, but simply not regulated at all by law.

Agriculture: Federal marketing system; creation of a farm board with power to set up farm-owned and farm-controlled corporations to prevent and control surpluses through orderly distribution.

Finance: Tax reduction as the condition of the treasury may allow; and reduction of public debt as rapidly as law permits.

Foreign Debts: Opposed to the cancellation of World War debts owed to the government of the United States.

Prohibition: Observance and vigorous enforcement of the Eighteenth Amendment.

Peace: The Kellogg multi-lateral treaty for the outlawry of war favored.

Defense: Maintenance of a navy in all classes of ships to the full ratio permitted by the Washington Naval Treaty of 1922.

In Event of War: Drafting of resources as well as of citizens.

Veterans: Full and adequate relief for disabled veterans.

Foreign Policy: Protection of American lives and property in foreign countries; the Coolidge policies in Latin America.

Summary of the 1928 Democratic Platform. —

Tariff: A tariff which will permit effective competition to insure against monopoly, and at the same time produce a fair revenue for the support of the government.

Transportation: Federal aid to highways; equal opportunity for all kinds of common carriers to compete; government operation of merchant marine for commerce and defense until private American companies are able to maintain lines already operated; promotion of deep waterways.

Labor: Curbing the issuance of injunctions in labor disputes; right of collective bargaining by agents of labor; appropriations for public works during times of unemployment.

Agriculture: Assurance of legislation providing for farm relief by assisting farmers as manufacturers have been assisted.

Finance: Further reduction in taxation by limiting debt retirement to sinking fund requirements.

Prohibition: Honest effort to enforce the Eighteenth Amendment and laws enacted thereunder.

Peace: Approval of the outlawry of war, and the limitation of armament.

Defense: Army and navy adequate for national defense until mutual reductions can be agreed upon with other nations.

Veterans: Generous appropriations for the veterans of all wars.

Congress: A new Congress should convene immediately after each biennial election.

Water Power: Retention of title to government-owned water power sites by the Nation or the States.

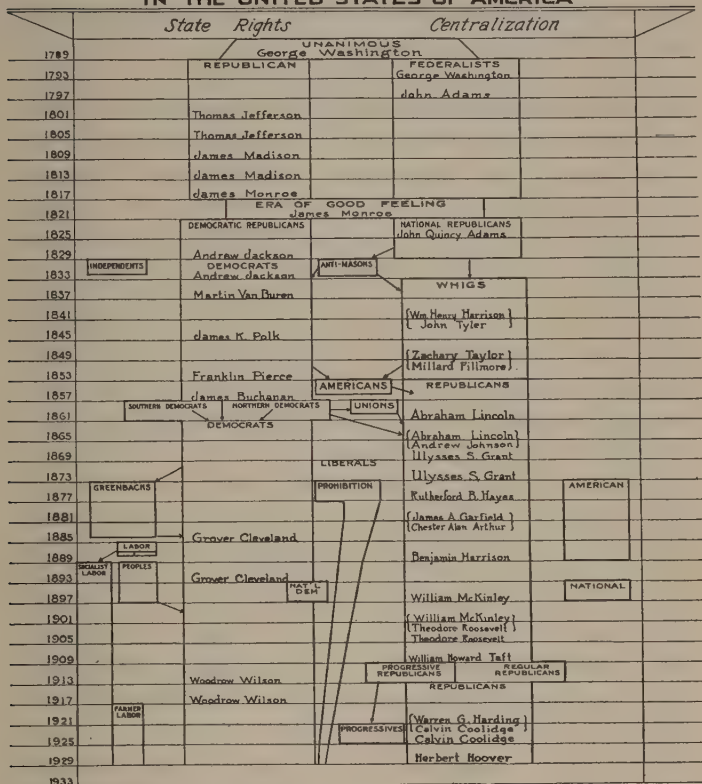
Dependencies: Immediate independence of the Philippines; granting of a territorial form of government to Porto Rico with a view to ultimate Statehood.

Foreign Affairs: Discontinuance of interference with purely internal affairs of Latin-American countries favored; intervention in any countries without the consent of the Senate opposed; friendly coöperation with the Latin Americans in the maintenance of the Monroe Doctrine.

Platforms of Minor Parties. — In 1912 the Roosevelt Progressive Party conducted a vigorous campaign, and in 1924 the La Follette Party conducted a less successful one. In 1928 the Socialists again became the principal minor party. It advocated public ownership of coal mines, water power sites, giant power system, banks, and means of transportation and communication; shorter working day and five-day week; higher corporation and inheritance taxes to pay unemployment insurance and old age pensions; the abolition of injunctions in labor disputes; enactment of Anti-Child Labor Amendment; and disarmament. It opposed the protection of private investments abroad.

The Prohibition Party is pleased because "the government is no longer a partner in the liquor traffic and no longer takes tribute in return for legal protection." Among its various pronouncements it cautions against trusting the "prohibition child with a wet nurse."

CHART SHOWING DEVELOPMENT OF POLITICAL PARTIES IN THE UNITED STATES OF AMERICA



Courtesy of World News.

In the above chart note the persistence of the two-party system in the United States. In Europe small parties have to combine into a "coalition government" to form a cabinet; but in the United States the Republicans and Democrats are the two dominant parties. The Socialists, Progressives, Prohibitionists, Independents, and various other parties have never developed sufficient strength to affect seriously the two-party system.

The National Convention. — In the early summer of every fourth year each party holds a convention for the purpose of formulating its principles and policies into a party platform and for nominating candidates for President and Vice-President. In December or January preceding a presidential election the National Committee of each of the National parties meets in Washington and decides upon the time and place to hold the convention.¹ When this is determined, the committee sends a call for the National Convention to each State committee, naming the time, place, and number of delegates to which each State and Territory is entitled. The Democratic Party assigns to each State twice as many delegates as it has senators and representatives in Congress, but the Republican Party allots them more nearly in proportion to party strength.² Each State is assigned as many alternates as it has delegates, and these serve in the absence of the delegates.

When the call from the National Committee is received, the respective State committees see that their party delegates are duly elected for the National Convention. In about half the States the delegates are elected by direct primary elections, while in the other States they are chosen in district or State conventions — the delegates-at-large, of course, being chosen at State conventions. The conventions or primary elections that choose these delegates frequently “instruct” them to support a

¹ The convention must be held in a city with railroad facilities, hotel accommodations, and auditorium space. In 1928, Houston obtained the Democratic Convention by giving the National Committee a certified check for \$200,000. San Francisco offered to pay \$250,000, but Houston's invitation and certified check were accepted.

² A Republican president has great influence with federal office-holders in the South because he appoints them. In 1908 Roosevelt used them to nominate Taft, and in 1912 Taft used them to nominate himself. Since then the number of southern Republican delegates has been restricted. In 1928 Alabama had 24 Democratic delegates but only 15 Republican.

Each party assigns delegates to the District of Columbia, Alaska, Hawaii, Porto Rico, and the Philippines, though these areas do not have presidential electors. In 1928 the total number of delegates in the Democratic Convention was 1100; in the Republican, 1089.

certain candidate for the presidential nomination and to urge that certain policies be included in the party platform.

In the large auditorium decorated with flags, bunting, and pictures of candidates and dead statesmen, the convention is called to order by the chairman of the National Committee. After the secretary reads the official call for the convention and prayer is offered, the National chairman names the temporary chairman and other officers whom the National Committee has nominated. Unless there is a factional fight, as there was in 1912 in both parties, these nominees are immediately elected by the convention. The temporary chairman is escorted to the chair and makes a lengthy speech in which he assails the record of the opposite party, eulogizes his own party, and pleads for harmony.

The Committees. — Four committees are now formed: (1) Committee on Permanent Organization; (2) Committee on Credentials; (3) Committee on Rules and Order of Business; and (4) Committee on Platform and Resolutions. Each State is entitled to one member on each committee. As the roll of the States is called, the chairman of each State delegation announces the members whom the delegation has chosen to represent that State on the respective committees. After these committees are named the first session usually ends.

The second session of the convention is usually devoted to receiving the reports of the committees. The Committee on Rules and Order of Business usually recommends the adoption of the rules of the preceding National Convention and of the House of Representatives so far as they are applicable, and recommends a program, or order of business, for the existing convention.

The Committee on Credentials recommends what delegates shall be seated when there is a split in the party and two sets of delegates claim to be the proper delegates.

The Committee on Permanent Organization nominates a permanent chairman and other permanent officers. When elected, the permanent chairman is escorted to the chair and delivers a long speech outlining the issues of the campaign.

Next, the Committee on Platform and Resolutions presents a platform of which a preliminary draft has been prepared by a party leader before the meeting of the convention. In committee a struggle may develop over the wording of the platform, and the debate may be continued on the floor of the convention. In 1928 the Democrats engaged in a vigorous debate over the prohibition plank. After the plank was adopted, Alfred E.



International News.

THE NATIONAL DEMOCRATIC CONVENTION IN 1928.

Smith, the presidential nominee, wired his personal views to the convention, and these views rather than the platform shaped the campaign issue.

The next duty of the convention is to nominate the President. The secretary calls the roll of States alphabetically, beginning with Alabama; and as a State is called, its delegates have a right to propose candidates for nomination by long eulogistic speeches. Any number of delegates may second a nomination by similar speeches. After all candidates are placed in nomi-

nation, the balloting begins. The secretary again calls the roll of the States, and the chairman of each delegation announces the votes for the entire delegation.¹

In the Republican Convention the votes of a bare majority of delegates nominate; in the Democratic the votes of two-thirds of the delegates are necessary. In 1912 Woodrow Wilson was nominated by the forty-sixth ballot, and in 1924 it was necessary to ballot 103 times to nominate John W. Davis. The Vice-President is nominated in the same manner as the President.

Party Machinery.² — Between the nomination of candidates and election day a political campaign must be waged, and for this purpose party organizations are necessary. Party machinery in the form of a National Committee, National subcommittees, congressional campaign committees, State committees, and local committees is necessary for each party.

The National Committees of the Democratic and Republican parties long consisted of one member from each State and Territory, but the extension of suffrage to women created a demand for additional representation. Therefore the Democratic and Republican parties have added to their national committees one woman from each State and Territory. This creates a new factor to be reckoned with by political leaders. In some States the committeemen are chosen by the direct primary method, in some by a State convention, while in others they are chosen by the State delegation at the national convention. At the head of the National Committee is the National *chairman*,³ nominally

¹ Until 1912 the Democratic Party used what was known as the "Unit Rule" by which all the votes of a State went to the same candidate; but the 1912 Convention modified the rule by providing that the unit rule should not be enforced for the delegations from States whose laws provide for the nomination and election of delegates to the National Convention in congressional districts. In the last Democratic Convention delegates from nearly all the States voted as individuals as freely as in the Republican Convention.

² The party machinery described in this section applies to the Democratic and Republican parties. That of other parties is very similar.

³ Second in importance only to the National chairman is the National

chosen by the National Committee, but really selected with the advice of the presidential candidate. He is the campaign manager, "the head master of the machine." For convenience and efficiency the National Committee is usually divided into sub-



A. & P.

VOTING BY MEANS OF A VOTING MACHINE.

Mayor James Walker is shown about to cast his vote at a congressional election.

committees, such as an executive committee, a finance committee, a committee in charge of the bureau of speakers, a committee in charge of literary and press matters, and a committee in charge of the distribution of public documents.

The Congressional Campaign Committees are organized both in the House and in the Senate. In the House the Republican Committee consists of one representative from every State having party representation in Congress, and each delegation selects its own representative. The Democratic Committee includes one representative from each State whether

represented in Congress or not, and also a woman from each State represented in Congress. States not represented in Congress by a Democrat have a committeeman chosen for them by the committee. This makes a Republican Committee in the House of

secretary, who is director at headquarters. He is more familiar with the actual details of the campaign than the chairman, who has largely determined the policy.

about thirty-five and a Democratic Committee of about one hundred. The Senatorial Committee of each party consists of seven members, who are appointed by the senatorial leader of the party. This committee has no connection with the other party committees but works in harmony and coöperation with them.

The State Committees vary in composition and powers from State to State. In number they vary from a few to more than a hundred members, and serve terms varying from one to four years. Except in those States where the State convention system has been abolished, the committeemen are selected at the State conventions. In some States the unit of representation is the congressional district, in others the county. Subordinate to State committees are various local committees.

Party Finance. — Since 1910 the amounts of national campaign contributions and expenditures have been filed with the Clerk of the House of Representatives. During the last four presidential campaigns the following amounts have been reported :

	1916	1920	1924	1928
Democratic . .	\$1,958,508	\$1,318,274	\$ 903,908	\$5,342,000 ¹
Republican . .	3,829,260	5,319,729	4,270,469 ¹	6,541,748

In 1928 the national party committees and other organizations spent \$9,433,604 to aid Republican candidates and \$7,152,511 to aid Democratic candidates, not including sums raised and expended by local organizations. One Republican and three Democrats gave more than \$100,000 each; and 47 Republicans and 27 Democrats gave \$25,000 or more each.

Corporations once contributed large amounts, but in 1907 Congress passed an act prohibiting contributions by any cor-

¹ Part of this was spent through party State organizations and the congressional and senatorial committees.

poration to any campaign fund used to aid in the election of the President, Vice-President, a representative, or a senator. By the same law national banks and other Federal corporations are forbidden to contribute to any political campaign fund.¹

By the 1925 Corrupt Practices Act amending former acts, a candidate for representative in Congress may not expend more than \$2500, and a senator not more than \$10,000² towards his election, or an amount equal to the amount obtained by multiplying three cents by the total number of votes cast at the last general election for all candidates for the office which the candidate seeks, but in no event exceeding \$25,000 if a candidate for senator, or \$5000 if a candidate for representative.³ He must report the receipts and expenditures for his campaign to the Secretary of the Senate or Clerk of the House within thirty days after an election.

¹ Besides this Federal law prohibiting corporations from contributing, many States prohibit corporations from contributing to State and local elections. States have various laws limiting the amount of money a candidate may spend and also specifying for what purposes he may spend it.

² Postage and a few items such as those which members of Congress obtain free are not included in these limits.

³ This Corrupt Practices Act does not apply to direct primaries because primaries and conventions are not *elections* over which Congress has a certain control. Congress passed a measure limiting the direct primary expenditures for candidates for Federal offices, but in 1921 the Supreme Court, by a vote of five to four, declared that part of the Act unconstitutional.

Friends of Mr. Truman Newberry lavishly but not fraudulently spent about \$195,000 in behalf of his election in his primary and election contests in Michigan. Mr. Newberry was indicted under the Federal Act, but as that part of the Act under which he was indicted was declared void he was allowed to take his seat in the Senate.

However, the Senate resolved "that the expenditure of such excessive sums in behalf of a candidate, either with or without his knowledge and consent, being contrary to sound public policy, harmful to the honor and dignity of the Senate, and dangerous to the perpetuity of a free government, such excessive expenditures are hereby severely condemned and disapproved."

Two senators-elect have since been excluded from the Senate largely because of the huge sums of money spent in connection with their nomination and election.

The treasurer of a political committee, or an individual expending \$50 or more in two or more states, must file a detailed report with the Clerk of the House annually, quarterly, ten days, and five days before a general election.

A campaign fund may be expended for the maintenance of headquarters, convention halls, club rooms, mass meetings, parades, and speakers' expenses; in most States for salaries, bulletins, pamphlets, and posters; and in a few States the cost of primaries must be borne by the State committees. Bribery, including gifts to influence voters, is everywhere illegal.

A law of Congress enacted in 1912 requires newspapers and other periodicals to publish the name or names of persons owning the publication so that it may be known to what extent certain persons or interests are influencing public opinion at election times. The law also requires publishers to insert the word "Advertisement" at the end of any reading matter for which the publisher receives pay.

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QUESTIONS ON THE TEXT

1. What is a political party?
2. What is the National Committee? Of whom is it composed?
3. How is the National chairman chosen? What is his position?
4. What is the duty of the various party representatives?
5. What is meant by party factions?
6. Why must the principles of a new party be emphasized? What holds together an old party?
7. What is the immediate purpose of a political party?
8. Why are political parties useful to a democratic government?

9. What is a political platform?
10. What is meant by a plank of a party platform?
11. What determines the value of a platform?
12. What was advocated in the latest Republican platform? the Democratic platform? the Socialist platform? Discuss the different planks.
13. Describe a National Convention. When does it meet? Who, and what considerations, determine where it will meet?
14. What is accomplished by a National Convention?
15. How many votes of a convention are necessary to nominate a Republican candidate? a Democratic candidate?
16. How are vice-presidential candidates nominated?
17. Describe party machinery and the methods of conducting a campaign.
18. What are the Congressional Campaign Committees?
19. Describe the political organization within a State.
20. Explain how funds are raised for campaign expenses.
21. May corporations contribute money to a political party to influence a Federal election?
22. May a candidate for Congress spend as much as he desires toward his election?
23. How can one learn how much money has been expended by a candidate for a Federal office?
24. Is it legal in any State to use gifts or bribes to influence voters?

QUESTIONS FOR DISCUSSION

1. Referring to party organization, Mr. C. R. Fish says: "There must be drilling and training, hard work with the awkward squad, and an occasional dress parade. This work requires the work of many men: there must be captains of hundreds and captains of tens, district chiefs and ward heelers. . . ." Explain the meaning of this quotation.
2. Is your State a one-party State? Would government be more efficient if there were two parties of about equal strength?
3. Compare the latest platforms of the leading political parties. Which is the most progressive? Which the least? Which do you favor? Did you inherit your views or do you think for yourself? Compare the latest platforms with the most recent preceding ones. (See World Almanac following presidential year.)
4. What are the differences between socialism and anarchism?
5. What is the method of procedure in your own State, in calling and conducting a caucus or primary if it has one.

6. In 1928 the following organizations collected and spent money in behalf of the Republican and Democratic Parties:

REPUBLICAN

	COLLECTED	SPENT
Republican National Committee	\$5,715,692	\$4,064,518
Republican State committees	3,034,054	4,761,957
Anti-Smith Democrats	34,707	34,669
Campaign Committee Anti-Saloon League .	172,468	165,327
Flying Squadron Foundation (Prohibition) .	61,170	54,001
Hoover for President Engineers Committee .	104,377	65,103
National Democratic Constitutional Com. .	90,818	89,207
National Women's Committee for Hoover .	89,011	92,011
Ways and Means Com. of Rep. Nat. Com. for Penn.	683,565	34,619

DEMOCRATIC

Democratic National Committee	\$5,178,495	\$3,157,453
Democratic State Committee	928,312	2,445,407
Agricultural Leagues	191	193,599
Association Against Prohibition Amendment .	478,038	453,700
All Party Smith-Robinson Clubs	94	27,594
Citizens' Committee of Illinois	257,639	257,639
Federal Dispensary Tax Reduction League .	22,739	41,558
Independent Citizens' Committee	303,860	161,823
Smith-for-President Colored League	850	153,629
Smith Independent Organizations Committee	—	155,904

Analyze the above facts and make some observation for the class.

7. Canada pays a salary to the leader of the opposition party in Parliament. Mexico does not. Why the difference?

8. Following the 1920 presidential election each national committee had a deficit totaling more than \$1,000,000. Before the 1924 campaign both parties announced that these deficits had been paid. These after-election unreported pledges were viewed with suspicion. Why? What 1925 Act tends to correct this evasion of the publicity law?

Why do individuals often lend a large sum to a political party before an election and then donate the loan to the party after the election? Why does the winning party receive large contributions after an election to pay off the debt?

9. Political parties now function by counting heads. But when they originated in England they gained ascendancy by breaking heads

— or cutting off those of the leaders. In Canada to-day the leader of the opposition party is paid. When your companions point out your faults in dress, language, and conduct do you want to break their heads or compensate them for their interest in your welfare? In other words, does your mind act like a primitive man or like a modern man of thought?

10. Frank Notch said: "As girls would prepare not for the married state but for the catching of a husband, so the politician must prepare not for his office but for the capturing of it." Is the first part of this comparison a compliment to young men? Is the second part a compliment to voters?

11. Some one has said: "Every political party rests upon a foundation of fools." In other words it must have a substructure firmly built on men and women who unthinkingly vote with the party no matter what the issues may be. Is this true in your community?

12. Which of the following political proposals do you consider to be of most importance? (1) Pay the cost of political campaigns from government funds; (2) make party organizations illegal; (3) encourage a third party; (4) compel citizens to vote; (5) elect only a few officers at one time, and make the ballot short by appointing officers other than those who make the laws; (6) forbid the use of money in political campaigns; or (7) do away with the spoils system.

13. If you were seeking nomination for office, would you rather have the convention system or the direct primary system? Give your reason.

14. If one intends to take an active part in politics, should he join a party? If he does not intend to take an active part but is interested, should he join a party? Should he join a party if he is a preacher? superintendent or president of a school?

15. Explain the political significance of the following words:

platform	pivotal States	straw vote
planks	on the fence	straight ticket
slate	pussyfooting	buncombe
dark horse	straddle the issue	spoils system

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CHAPTER XVIII

STATE CONSTITUTIONS

Origin of State Constitutions. — As the result of the Revolutionary War the thirteen colonies of North America became thirteen independent States. Each had power to enact such laws as it considered wise. As expressed by a meeting of New Hampshire towns: "It is our humble opinion, that when the Declaration of Independence took place, the Colonies were absolutely in a state of nature, and the powers of Government reverted to the people at large." Thus the people of each State had power to create any kind of government they preferred.

Connecticut and Rhode Island found the colonial charters granted to them by Charles II to be so liberal that these charters were sufficient for their purposes. These States merely renounced their allegiance to the King of England and continued to be governed according to the provisions of their charters until 1818 and 1842 respectively. Between 1776 and 1780 all of the other States prepared new documents, known as *constitutions*. In addition to outlining a form of government these documents contained certain rules to which all State legislation must conform.

These original constitutions were framed by State conventions, or congresses, some of which were composed of members of the State assemblies; while others were especially constituted for that purpose. All of our State constitutions now in existence were framed by assemblies representing the people.

Congress never admits a new State into the Union until the territory desiring to be admitted has framed its constitution. On the admission of some States Congress has passed an Act empowering the people of a territory to hold a convention and

frame a constitution ; on the admission of other States Congress has accepted and confirmed the constitution previously drawn up by a territorial convention.

State Constitutions Analyzed. — State constitutions commonly consist of six parts :

(1) A *preamble* stating the general purpose for which the government is organized.

(2) A *Bill of Rights* listing certain rights which must not be infringed upon even by enactments of the legislature.

(3) *Provisions for the organization of the legislative, executive, and judicial departments*, and the powers and duties of each.

(4) *Provisions of a miscellaneous character* treating of such subjects as suffrage and elections, revenues and expenditures, local government, public education, and railroads and other corporations.

(5) *Provisions for future changes* by partial amendment or total revision.

(6) A *schedule* providing for such matters as submitting the new constitution to the voters and putting it into operation without conflicting with the previous constitution.

Revision of State Constitutions. — As the provisions of our State constitutions cannot be changed by the State legislatures in the same manner that ordinary laws are changed, special means have developed for altering them when new conditions make it advisable. If the people desire to make many changes in the constitution, a *convention* is called to revise the old constitution or to frame a new one. But if only a few portions of the constitution are to be changed, a simpler procedure is followed, known as *partial amendment*.

Constitutional Conventions. — A constitutional convention is an assembly of delegates chosen by the voters to revise an old constitution or to frame a new one. In all States except Rhode Island the constitution may be changed by a convention, but in most States it must then be ratified by the voters before it becomes law.

There are usually three popular votes connected with a new or revised constitution: (1) the vote of the people authorizing a convention, (2) the election by the voters of delegates to the convention, and (3) the submission to the people for approval of the constitution framed by the convention.¹

Partial Amendment. — In all States except New Hampshire the constitution may be changed by partial amendment, which method is used when only a few alterations are to be made. The details of this method are given below in order that the reader may learn in what manner the constitution of his State may be amended.

- (1) Amendment by an affirmative vote of two successive legislatures, without being submitted to the voters.²
- (2) Proposal by the legislature and confirmation by a vote of the people, but with the final determination left to the legislature.³
- (3) Amendment proposed by the legislature, and approved by the voters, but with the amending process subject to such restrictions as to make constitutional changes difficult. Such restrictions are of three kinds:
 - (a) Requirement of an affirmative vote by two successive legislatures for the proposal of amendments.⁴
 - (b) Limitations as to the number, frequency, or character of proposals.⁵

¹ Some States dispense with the first vote, others with the third, and Mississippi dispensed with both the first and the third in 1890. On this occasion the legislature of Mississippi provided for an election at which delegates were chosen, and when the delegates had framed a constitution they adopted it without consulting the people.

² Delaware.

³ Mississippi and South Carolina.

⁴ Connecticut, Indiana, Iowa, Massachusetts, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and Wisconsin.

⁵ Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Montana, New Jersey, Pennsylvania, Tennessee, and Vermont.

- (c) Requirement of an affirmative vote by more than a bare majority of all persons voting upon the amendment — *e.g.*, by a majority of those who vote for officers at that election.¹
- (4) Unrestricted proposal of amendments by one legislature and their adoption by the vote of a majority of the persons voting thereon.²

The Initiative. — In addition to the foregoing methods of amending State constitutions a new way has developed since 1902, and is now practiced by a number of States.³ This new method is known as the *Initiative* because the proposed amendment is initiated by voters. When a prescribed per cent of the legal voters — *e.g.*, eight per cent in Oregon — desires to have any part of the constitution changed, they sign a petition stating exactly what change they desire. This proposal is sent to the secretary of state, who places the proposed change upon the ballot for the next State election. If a majority of the voters cast their ballots in favor of the change, the constitution is thus amended.

In 1930 the people of Oregon initiated and carried an amendment permitting one or more counties to form public utility districts, including cities, to develop and sell water, water power, and electric energy.

California has made a greater use of the constitutional initiative than any other State, and it seems to be satisfied with it because at the 1922 election the people voted by a substantial majority not to increase the number of petitioners necessary to place constitutional measures upon the ballot.

At the 1926 election there were initiated five proposed constitutional changes of which one was approved. It provides for

¹ Alabama, Arkansas, Illinois, Indiana, Minnesota, Nebraska, New Mexico, Oklahoma, Rhode Island, Tennessee, and Wyoming.

² Arizona, California, Florida, Georgia, Idaho, Louisiana, Maine, Maryland, Missouri, Michigan, North Carolina, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Washington, and West Virginia.

³ For a complete list of Initiative States see page 593.

legislative reapportionment on a population and territorial basis. Another initiative providing for legislative reapportionment on a population basis was defeated by a large majority.

Legislature Proposal. — At the 1926 election the legislature of California submitted eighteen proposed amendments to the Constitution, of which fourteen were accepted. Those accepted included one exempting reforested young timber from taxation by a vote of 619,062 to 276,473, and another providing that judicial candidates receiving a majority vote at the primary shall be declared elected.

In 1927 the New York Legislature submitted ten constitutional amendments, of which the voters approved nine. One authorized New York City to borrow for new subway construction \$300,000,000 in excess of the city's debt limit.

Present Tendencies. — Our early State constitutions were very brief, rarely containing more than 5000 words, but most of the State constitutions of to-day contain from ten to twenty times as many words as the original documents.

There are two reasons for this increase in length. First, the government performs so many more functions now than it did when the first constitutions were adopted. Second, the members of a constitutional convention now lack confidence in the ability of the ordinary member of a State legislature and think it best to include in the constitution itself many detailed laws which were originally left to be enacted by the legislature.

The constitution of Oklahoma, one of the more recent, goes into such minute detail as to enumerate the classes of persons who are permitted to accept railroad passes. It contains about 50,000 words. Laws which go into great detail need to be amended frequently, and since 1902 many States have adopted the easier method of amending their constitutions — the initiative method. And even those States which have not adopted the new method of amending their constitutions are obliged to resort to the old methods more frequently.

Authority of State Constitutions. — The constitution with its amendments constitutes the supreme law of the State, and it overrides any laws enacted by the legislature which conflict therewith. Whenever a legislature passes a law which conflicts with some provision of the constitution, the first person who is in any way inconvenienced by the law may refuse to abide by it, and permit some one to sue him because he knows that the court will declare the law null and void, that is, of no force.

For example, some years ago the legislature of New York State enacted a law providing that any employer whose workmen are injured in certain enumerated dangerous pursuits, such as stone quarrying, must compensate the workmen by a money payment, whether the employer was at fault or not. The first employee who was injured demanded his money. The employer refused to pay him, claiming that the law was contrary to the constitution of the State. The workman sued the employer, but the highest court of the State (Court of Appeals) decided that the law did conflict with the constitution, was thus null and void, and could not be enforced.

The legislature still thought that there should be such a law; therefore two successive sessions proposed an amendment to the constitution and submitted it to the people. The majority of voters cast their ballots in favor of it, and thus changed the constitution so that the next legislature could enact the same workmen's compensation law, for it would no longer conflict with the constitution. The next legislature did pass the law, and to-day the courts enforce it.

Relative Rank of Laws in the United States.

United States Constitution.

United States statutes and treaties.

State constitutions.

State statutes.

County, town, or city statutes, called county "regulations" or "by-laws" and town or city "ordinances" or "by-laws."

The Constitution of the United States is the supreme law of the land, and every other law is subordinate to it. If Congress passes any statute which conflicts with the Constitution of the United States or if the President and Senate make any treaty which conflicts with the Constitution of the United States, such statute or treaty will not be enforced by the courts.

Likewise, if a State constitution contains any provision which is contrary to the Constitution of the United States or to a statute of Congress, it cannot be enforced. Furthermore, if a State legislature enacts a statute contrary to the Constitution of the United States, a statute of Congress, or a provision of the State constitution, it cannot be enforced. Or if a county board or town or city council passes a by-law contrary to any of these laws, it is void and the courts will not enforce it.

It is impracticable to write definite laws regulating in detail all possible human actions; so in addition to the written laws we have a set of rules and principles which are not written in any definite form but are enforced by the government. These rules and principles grew out of custom and court decisions in England during a number of centuries, and because they were uniform throughout all England they were called *common law*.¹

When the American States became independent of England they retained the English common law to supplement their definite written laws.

As each American State has a distinct system of courts the common law rules and principles have become different in some details in the various States; but as decisions of the courts of each State are known to the judges of the courts of each of the other States these rules and principles remain very much the same throughout the country.²

If there is a case in court for which there is no definite written

¹ Equity is similar to common law. See page 478.

² Louisiana, which State obtained its system of laws from France, is the only one that did not adopt the common law. But even there common law rules are gaining ascendancy.

law, it must be decided according to the rules of common law. Occasionally a case arises which is unlike any previous case; for instance, a suit growing out of the collision of an airplane with a balloon. In the absence of an expressed law governing such a collision, the rules establishing a standard of care in the case of steamships and sailing vessels might be applied. The rules of the sea have long required the steamship to give the sailing vessel the right of way; likewise, by analogy, airplanes should be responsible for avoiding collisions with balloons because the latter are the less easily managed.

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A copy of the State constitution can usually be obtained gratis from the Secretary of State.

QUESTIONS ON THE TEXT

1. What is a State constitution?
2. Of what six parts does a State constitution commonly consist?
3. For what purpose is a constitutional convention assembled?
4. What part do the voters usually take in making a new constitution?
5. What is meant by *partial amendment* of a State constitution? Describe in detail how it is accomplished in the State in which you live.
6. What new way of amending constitutions has developed since 1902? Explain this method.
7. What are some of the present tendencies of State constitutions?
8. If you are in any way inconvenienced by an Act of the legislature which is contrary to the constitution, need you abide by it?
9. If a law is declared unconstitutional, is there any possibility of making it constitutional?
10. Name the various kinds of laws in the United States according to their relative rank of importance.

QUESTIONS FOR DISCUSSION

1. The members of the English House of Commons are elected for a term not exceeding five years. When the five-year term expired in 1915 the House continued to sit without an election because of the war condition. Could the United States House of Representatives prolong its term of office with the assent of the Senate? (See U. S. Constitution, Art. I, Sec. 2.)

2. Suppose South Carolina should add an amendment to its constitution depriving Negroes of the right to vote. Would this be a valid law? (See Amendment XV.)

3. The constitution of New Jersey restricts the right of suffrage to male persons 21 years of age. Does this law prevent women from voting in New Jersey now? (See Amendment XIX.)

4. The constitution of Virginia, until recently amended, provided that all cities of the first class should be governed by a two-body council. Staunton, Virginia, a city of the first class, desired to be governed by a single body commission. Could it be so governed?

5. If Congress defines an intoxicating liquor as one containing a certain per cent of alcohol and the legislature of New Jersey defines it as liquor containing a larger per cent of alcohol, what legal question is involved?

6. When and under what circumstances was the constitution of your State adopted? Was it approved by the people? Prepare a brief outline of it, showing the main topic of each division and article.

7. The contents of State constitutions are becoming very similar to ordinary statutes, and since the method of changing them, by the initiative, is that which is commonly used for ordinary statutes, do we any longer need these constitutions? If State constitutions were abolished, would it make the governments more or less democratic?

8. In a number of State legislatures the cities are not represented in proportion to population because the legislators from the country who now dominate the legislature are unwilling to increase the legislative influence of cities. What effect would the introduction of the constitutional initiative have upon the representation of cities in a State where the city voters are in the majority?

9. Prepare a brief constitution for a baseball or a basket-ball team.

10. How may new States be formed out of old States? (See U. S. Constitution, Art. IV, Sec. 3.) If the legislatures of New York and Illinois were willing to have New York City and Chicago become separate States, do you believe Congress would create new States of these cities? Would the House or Senate of Congress be more favorable to the admission of these proposed new States?

CHAPTER XIX

STATE LEGISLATURES

Structure of State Legislatures. — Every State has a legislative body. In twenty-four of the States this body is known as the "Legislature," in nineteen as the "General Assembly," in three as the "Legislative Assembly," and in New Hampshire and Massachusetts as the "General Court." In each State the legislative body is composed of two houses — the Senate and the House of Representatives.¹

Membership of State Legislatures. — The *Senates* vary in membership from 17 in Nevada to 67 in Minnesota. In some States one senator is elected from each county, but most States are divided into Senatorial Districts of about equal population. Senators are elected for terms of 4 years in 31 States, 2 years in 16 States, and 3 years in New Jersey.

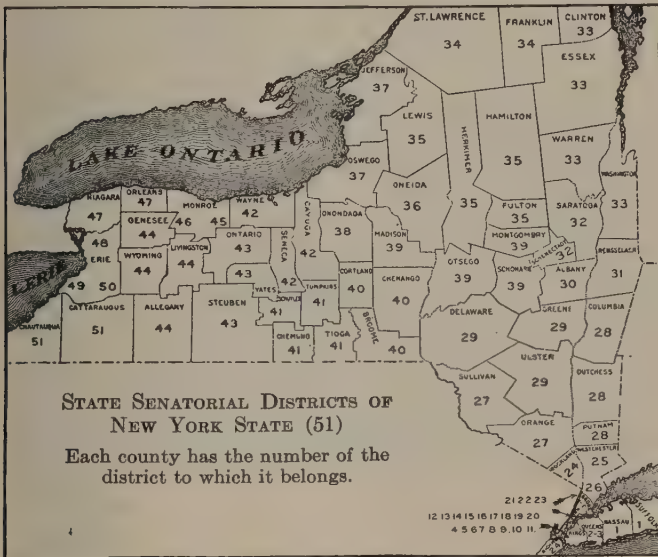
The membership of the *House of Representatives* varies from 35 in Delaware to about 420 in New Hampshire. In some States one or more representatives are elected from each county or each township, whereas other States are divided into House Districts of about equal population.

From time to time the legislatures create new Senate and House districts which correspond to the changed distribution of population. As the cities grow in population the rural county representatives commonly refuse to increase city representation

¹ All States give the name "Senate" to the less numerous branch of the legislative body; but instead of the term "House of Representatives," California, Nevada, New York, and Wisconsin call the more numerous branch "Assembly"; New Jersey calls it "General Assembly"; and Maryland, Virginia, and West Virginia call it "House of Delegates."

proportionately for fear that the counties will be controlled by the cities. An especially unfair apportionment is called a "gerrymander." (See page 91.)

The rapid growth of cities has caused some States to fear the domination of the whole State by one city controlling the legislature. So in Pennsylvania no city is allowed to have more than one sixth of the senators; and in Rhode Island no town or city may have more than one fourth of the representatives.



In most States any qualified voter is eligible to membership in the Senate or House, but in some States the age qualification for the Senate is higher than that for the House. The members, either by law or custom, usually reside in the districts from which they are elected.

Legislative Sessions. — The legislatures of four States meet annually, that of Alabama quadrennially, and those of all other States biennially. In forty-odd States the legislatures are

other place; and that members are not subject to arrest under any civil process during any legislative session or coming thereto or going therefrom. This latter privilege amounts to scarcely anything to-day, for a member who commits treason, felony, or breach of the peace may be arrested like any other individual.

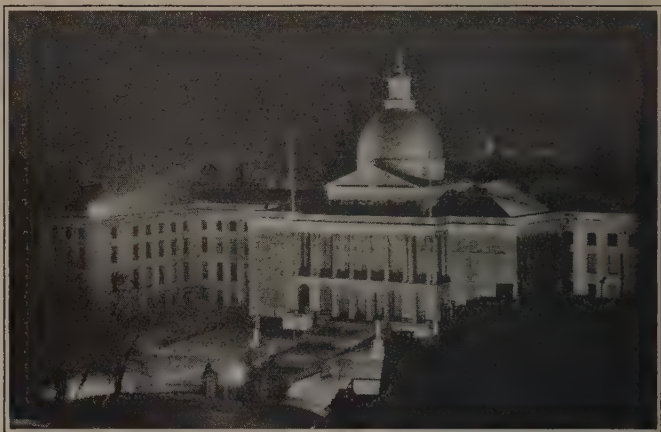
Each State pays members of both houses the same. In some States the legislature determines the amount; in others the constitution prescribes it. Where the salary is restricted by



THE STATE CAPITOL, SACRAMENTO, CALIFORNIA.

the constitution some legislatures have allowed themselves a per diem for personal expenses in addition to the clerical allowance.

Powers of State Legislatures. — According to the Tenth Amendment to the Constitution of the United States “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.” (See page 63.) State constitutions confer all of this reserved lawmaking power upon the legisla-



STATE HOUSE, BEACON HILL, BOSTON, MASSACHUSETTS.

tures, except as to certain specified matters reserved to the voters which may be altered only by changing the constitution.¹

The legislatures do not attempt to exercise all of their powers,

¹ The following restrictions are commonly placed upon State legislatures by State constitutions:

1. The Bill of Rights guarantees freedom of the press and speech, religious liberty, jury trial, right to the writ of *habeas corpus*, etc., and prohibits the taking of private property for a public purpose without compensation.

2. Other parts of the constitution:

- (a) Prohibit special privileges to corporations.
- (b) Limit State debts and compel regular payment of interest and principal.
- (c) Prescribe qualifications for voters and define terms and duties of certain officers.
- (d) Prescribe certain rules for local government, public education, and public institutions.
- (e) Place certain restrictions upon the passage of special or local laws, that is, laws applying to some particular person, corporation, or locality — township, county, or city. As an illustration of the need of such restrictions, some years ago the legislature of Pennsylvania compelled Philadelphia to build a city hall costing millions of dollars, which was larger and more extensive than the city needed or would have otherwise built.

but delegate a portion of them to other local legislative bodies in counties, townships, school districts, cities, and towns or villages. The county board and the city council are examples of minor legislatures which derive all of their powers, except a few which are bestowed directly through the constitution, from general or special laws framed by a legislature.

Of course it is impossible to enumerate the powers of the State legislatures because they may enact any laws which are not denied them by the Constitution or laws of the United States or by the constitutions of the respective States, but examples can be given of subjects concerning which they legislate. Such examples are taxation; civil matters, such as contracts, real and personal property, inheritances, mortgages, corporations, marriage, and divorce; crimes for which fines, imprisonment, or death are imposed; business or professional regulations; "police regulations," such as public health, moral, safety, or any general welfare rule which restricts a person's inclination to do as he pleases.

Organization of State Legislatures. — *The Houses.* — Each house of the State legislatures commonly has power to select its own officers, except that some States have a lieutenant-governor, who presides over the upper chamber, provided for in the constitution. (See page 454.) It also determines its own rules of procedure and the qualifications of its members; and by a certain prescribed majority, usually two thirds, may expel members. Legally the speaker of the House and the president or chairman of the Senate, except where there is a lieutenant-governor, are elected by the respective houses over which they preside, but practically they are chosen in a party caucus. (See page 170.)

The officers of each house of the State legislatures are very similar to those of Congress and their duties are about the same. (See page 158.) For instance, the speaker is presiding officer of the House and has power to refer bills to committees, but unlike the speaker of the United States House of Representatives he

STATE LEGISLATURES

STATE	ANN. OR BIEN.	LIMIT OF SES- SION WITH PAY	NO. OF MEM- BERS IN SENATE	NO. OF MEM- BERS IN HOUSE	TERM OF SENATORS (YEARS)	TERM OF REP- RESENTATIVES (YEARS)	SALARY OF MEMBERS
Alabama . . .	Bien.	50 days	35	106	4	4	\$4 per diem
Arizona . . .	Quad.	60 days	19	62	2	2	\$15 per diem
Arkansas . . .	Bien.	60 days	35	100	4	2	\$1000 bien.
California . . .	Bien.	None	40	80	4	2	\$2400 bien.
Colorado . . .	Bien.	None	35	65	4	2	\$1000 bien.
Connecticut . .	Bien.	155 da.	35	267	2	2	\$300 bien.
Delaware . . .	Bien.	60 days	17	35	4	2	\$10 per diem
Florida	Bien.	60 days	38	95	4	2	\$6 per diem
Georgia	Bien.	60 days	51	207	2	2	\$7 per diem
Idaho	Bien.	60 days	44	70	2	2	\$5 per diem
Illinois	Bien.	None	51	153	4	2	\$3500 ses'n
Indiana	Bien.	61 days	50	100	4	2	\$10 per diem
Iowa	Bien.	None	50	108	4	2	\$1000 ses'n
Kansas	Bien.	50 days	40	125	4	2	\$3 per diem
Kentucky . . .	Bien.	60 days	38	100	4	2	\$10 per diem
Louisiana . . .	Bien.	60 days	39	100	4	4	\$10 per diem
Maine	Bien.	None	31	151	2	2	\$600 ses'n
Maryland . . .	Bien.	90 days	29	118	4	4	\$5 per diem
Massachusetts .	Ann.	None	40	240	2	2	\$2000 ann.
Michigan . . .	Bien.	None	32	100	2	2	\$2190 bien.
Minnesota . . .	Bien.	90 days	67	131	4	2	\$1000 ses'n
Mississippi . .	Bien.	None	49	139	4	4	\$1000 ses'n
Missouri . . .	Bien.	70 days	34	150	4	2	\$5 per diem
Montana . . .	Bien.	60 days	56	102	4	2	\$10 per diem
Nebraska . . .	Bien.	None	33	100	2	2	\$800 ses'n
Nevada	Bien.	60 days	17	37	4	2	\$10 per diem
New Hampshire .	Bien.	None	24	420 ¹	2	2	\$200 bien.
New Jersey . .	Bien.	None	21	60	3	1	\$500 ann.
New Mexico . .	Ann.	60 days	24	49	4	2	\$5 per diem
New York . . .	Bien.	None	51	150	2	1	\$2500 ann.
North Carolina .	Ann.	None	50	120	2	2	\$600 ses'n
North Dakota .	Bien.	60 days	49	113	4	2	\$5 per diem
Ohio	Bien.	None	32	128	2	2	\$1000 ann.
Oklahoma . . .	Bien.	60 days	44	115	4	2	\$6 per diem
Oregon	Bien.	40 days	30	60	4	2	\$3 per diem
Pennsylvania . .	Bien.	None	50	208	4	2	\$3000 ses'n
Rhode Island .	Ann.	60 days	42	100	2	2	\$5 per diem
South Carolina .	Ann.	40 days	46	124	4	2	\$400 ses'n
South Dakota .	Ann.	60 days	45	103	2	2	\$5 per diem
Tennessee . . .	Bien.	75 days	33	99	2	2	\$4 per diem
Texas	Bien.	120 days	31	150	4	2	\$10 per diem
Utah	Bien.	60 days	23	60	4	2	\$4 per diem
Vermont	Bien.	None	30	248	2	2	\$400 ses'n
Virginia	Bien.	60 days	40	100	4	2	\$720 ses'n
Washington . .	Bien.	60 days	46	99	4	2	\$5 per diem
West Virginia .	Bien.	60 days	30	94	4	2	\$500 ann.
Wisconsin . . .	Bien.	None	33	100	4	2	\$2400 bien.
Wyoming . . .	Bien.	40 days	27	62	4	2	\$12 per diem

¹ The membership of the New Hampshire House varies slightly from session to session, as small towns are not represented at all sessions.

has, in all but two ¹ States, power to appoint the committees.² Each house has a clerk and a sergeant-at-arms and numerous other officers varying in number from 21 in Delaware to 315 in Missouri.

The Committee System in State legislatures is also very similar to that of Congress. (See page 162.) Here also most committee meetings are held in secret and their votes upon measures are not recorded in a majority of the States. It is by these committees that popular measures are so often defeated. For instance, a common method of preventing the passage of a bill is for the speaker to refer it to the Judiciary Committee, claiming it to be of doubtful constitutionality, but really desiring to prevent the bill from coming to a vote. The majority of this committee is naturally composed of friends of the speaker inasmuch as he appoints them, and he can usually count upon them to "pigeon-hole" any such bill and fail to report upon it. Thus it dies and it is buried in the committee. Because of the great number of deserving bills which are buried in this committee it is often spoken of as "the graveyard committee."

Ex-Governor Sulzer of New York, who had considerable opportunity to observe actual methods of legislation, once said: "The crooked work in legislatures is all, or nearly all, done in committees. People who take an intelligent interest in public affairs think they have made a great step when they have the public watching the legislature. They have, but a greater step will have been made when they have the public keeping the spot light on legislative committees and particularly the chairman. For immediately behind the chairman of the committee will be found the Big Boss."

Most States have an unnecessary number of committees. The

¹ In Nebraska and Oklahoma House committees are chosen by a committee on committees.

² State senate committees are chosen in five different ways in the States: (1) by the Lieutenant-Governor, (2) by the President of the Senate, (3) by the President pro tem, (4) elected by the Senate, or (5) by a committee on committees.

48 legislatures have about 3000 committees. In a third of the senates there are more committees than senators. Committees are created to serve some real or apparent need and then at the beginning of each succeeding session they are continued because it is easier to continue them than to abolish them. Then, too, a committee chairman is often assigned an office, and he usually has a secretarial allowance.

In Massachusetts especially, committee hearings are a very important part of legislative action. Notice of all hearings is given in the public press, and the committee meetings are well attended, not only by people who have an ax to grind, but by citizens of the State who interest themselves in legislative reforms. All testimony brought before the committee is carefully weighed; in fact, the legislature and its committees assume rather a judicial attitude. Petitions are brought before them, testimony is given, arguments are made, and they generally decide the matter upon the basis of all these considerations.

In Massachusetts, instead of having separate committees for each house, most of the committees are composed of members from both houses and are called "joint committees." Thus there is only the one hearing instead of two to consume the time of legislators and hundreds of interested citizens who are summoned or voluntarily come from all over the State to present their knowledge and wishes to a committee.

How Bills Become Laws. — *Preparation of Bills.* — The State legislatures may represent the average honesty and intelligence of the people, but few legislators are capable of preparing their bills in unmistakable language or in accordance with superior law.¹ For some years the members of our legislatures drafted their own bills, the lawyer members or some legislative clerk assisting the inexperienced.

After the development of large corporations their lobbyists, or legislative agents, often prepared bills free for members whose

¹ *Superior law* means the Constitution of the United States, laws of Congress, treaties, and the State constitution.

acquaintance and good-will they desired. To-day half of the States have trained assistants whose duty it is to put in clear legal form the ideas that members wish to enact into statutes. The assistant is ordinarily connected with a legislative reference bureau.

A *Legislative Reference Bureau* is a library or division of a library especially equipped to assist legislators. Such a bureau collects references, summaries, files, card indexes, court decisions, newspaper clippings, magazine articles, reference books, government reports, bills introduced into other legislative bodies, governors' messages, platforms of political parties, and any other information available for legislators. Since 1890 thirty-odd States have undertaken this work on varying scales, usually in coöperation with the State library; and more than half of the States have a division devoted exclusively to legislative reference service.¹

Introduction of Bills. — Any member of either house may introduce as many bills as he chooses; but important bills are commonly prepared by a committee and introduced by its chairman. In introducing bills the members merely file them with the clerk. Some legislatures prohibit the introduction of bills after the legislature has been in session a certain number of days; others require that bills of a local or private character must be announced in the locality to be affected; and others require that local bills receive a two-thirds vote of each house instead of a bare majority, which is sufficient for public bills.

As the passage of a bill through a State legislature is so similar to the procedure of Congress it need not be described here in detail. (See page 165.)

On account of the large number of bills introduced at each session of the State legislature it would be impossible for the committees to give consideration to all of them. Therefore

¹ The Interstate Legislative Reference Bureau of the American Legislators' Association was organized in 1930 to function as the Clearing House for the Legislative Reference Services of all the States.

those bills which are not introduced by prominent members or backed by influential lobbyists are commonly not seriously considered and are said to be "pigeon-holed." Other bills which the committees do not favor, but feel obliged to report upon, are often intentionally reported too late to be considered by the houses.

Lobbying. — The practice of frequenting lobbies¹ or any other convenient places for the purpose of persuading legislators to vote for or against certain bills is known as *lobbying*. For instance, tax reduction leagues, schools of higher education, the Anti-Saloon League, liquor organizations, railroads, and many other organizations interested in legislation — good or bad — send agents to State capitols to frequent the legislative halls for the purpose of influencing legislative votes. All such agents engaged in lobbying at the capitol are known as *lobbyists*.

The State of Wisconsin requires all persons employed to lobby at a legislative session to be registered on a legislative docket which is kept by the Secretary of State. The names of the employer and employed must be entered with a statement of the legislation in which interested and the terms of employment. The lobbyist is not allowed to enter upon the floor of either House; and his lobbying must be restricted to committees or in work properly incidental thereto, to newspaper publications, public addresses, or written briefs delivered to each member of the legislature and filed with the Secretary of State. A detailed statement of expenses must be filed within thirty days of the adjournment of the legislature.

The Referendum. — (See page 419.) *Mandatory.* — State constitutions require that such propositions as bond issues and constitutional conventions be referred to the people. In 1926 fifteen such measures were submitted, including the following:

¹ A *lobby* is an anteroom or corridor communicating with the main assembly room, or else a part of the room itself to which the public is admitted and which is usually railed off from the part used for the assembly.

Cal.	Authorizing \$20,000,000 bond issue to assist war veterans in acquiring farms and homes	YES 705,398	NO 219,230
Mich.	Authorizing constitutional convention . . .	119,491	285,252

Optional with the Legislature. — If a measure is voluntarily referred to the voters by a legislature it is said to be an optional or legislative referendum. In 1926 State legislatures voluntarily referred eight measures to the people, including the following :

		YES	NO
Ore.	Establishing Eastern Oregon normal school .	101,327	80,084
Mo.	Repealing State prohibition laws	294,388	569,931

Popular Petition. — In one third of the States the Governor is not the only authority that can prevent a bill which has passed the legislature from becoming law.¹ In these States a petition signed by a prescribed per cent of voters may demand that any non-emergency measure ² be referred to the people. In 1926 the people of six States had a total of nine legislative Acts referred to them, including the following :

Cal.	Further regulating the manufacture and sale of oleomargarine and imposing a tax of 2 cents a pound thereon	YES 287,703	NO 749,640
S. D.	Repealing bank deposits guarantee law . .	79,823	95,830

The Initiative. — (See page 420.) All the States which have the popular petition referendum, except Maryland and New Mexico, also have the *initiative*,³ which is a device whereby a

¹ For a list of Referendum States see page 593.

² In States with the popular petition referendum there are certain measures which need to become effective at once, which cannot wait the 90 days, or what not, during which the people may have petitions signed for a referendum. These measures are called "emergency measures." If the legislature declares a measure to be an emergency measure, it may become effective immediately.

The legislatures abused this emergency privilege, and in some States the legislatures declared half of the measures emergency measures. To prevent a legislature declaring a measure an emergency measure just to avoid any possibility of its being referred to the people some States gave the governor the right to veto an emergency clause without vetoing the entire measure.

³ For a list of Initiative States see page 593.

small percentage of voters may initiate a law and have it referred to all of the voters for their acceptance or rejection. Thus, if a legislature will not enact a law which a certain per cent of the voters think the majority favor, they can have the prescribed per cent sign a petition, and the measure will be referred to the voters at the next election. This is known as *direct legislation*.

In 1926 the people of ten States initiated twenty-two statutes. Five of these were accepted and seventeen rejected, including the following :

		Yes	No
Cal.	Increasing gasoline tax from 2 to 3 cents per gallon	499,415	539,343
Mont.	Increasing gasoline tax from 2 to 3 cents per gallon for highways	114,763	42,232

Commission Government for States. — Believing that the State legislatures are no longer able to carry out the various duties which new conditions impose upon them, Governor Hodges of Kansas sent a special message to the Kansas legislature on March 10, 1913, containing the following passage :

"In common with a large and growing number of thoughtful people I am persuaded that the instrumentalities for legislation provided for in our State constitution have become antiquated and inefficient. Our system is fashioned after the English parliament, with its two houses based upon the distinction between the nobility and the common people, each House representing the diverse interests of these classes. No such reason exists in this State for a dual legislative system, and even in England at the present time the dual system has been practically abandoned and the upper House shorn of its importance, and I believe that we should now concern ourselves in devising a system for legislating that will give us more efficiency and quicker response to the demands of our economic and social conditions and to the will of the people. . . .

"You senators and representatives cannot but have observed the defects of our present system. In a short session of 50 days you are required to study and pass upon hundreds of measures, and the hurry with which this must be done must of necessity result in a number of more or less crude and ill-digested laws, which often puzzle learned jurists to interpret with anything like satisfaction to themselves or to

the public. Hundreds of measures also, embodying important legislation, die on the calendar every two years. After a brief session the Legislature adjourns, and the business of one coördinate branch of the State government is absolutely abandoned for a whole biennium, unless the Legislature is convoked in an expensive extraordinary session by the governor. It is as if the head of an important department of some big business should give only 50 days every two years to its management.

* * * * *

"For myself, I can see no good reason why this new idea of government by commission should not be adopted for the transaction of the business of the State. Two years ago I suggested a single legislative assembly of thirty members from thirty legislative districts. I am now inclined to believe that this number is too large and that a legislative assembly of one, or at most two, from each Congressional district would be amply large. My judgment is that the governor should be *ex officio* a member and presiding officer of this assembly, and that it should be permitted to meet in such frequent and regular or adjourned sessions as the exigencies of the public business demands; that their terms of office be for four or six years, and that they be paid salaries sufficient to justify them in devoting their entire time to the public business. Such a legislative assembly would not, I believe, be more expensive than our present system. It would centralize the responsibility and accountability, and under the check of the recall would be quickly responsive to the wishes of the people."¹

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¹ So far the State of Kansas has taken no serious action upon this recommendation, but the question has been voted upon by the people of two other States, Oregon and Oklahoma. In Oregon an initiative amendment to abolish the State senate was defeated by the people at the November election, 1914. In Oklahoma an initiative amendment to establish a one-body legislature of 80 members was voted on at the same time. The vote in favor of the amendment was 94,636, that against it only 71,742, but since 94,636 was not a majority of all the votes cast at that election the amendment was lost because Oklahoma requires a majority of the total number of votes cast at the election to amend its constitution.

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QUESTIONS ON THE TEXT

1. By what name is the legislature of the State in which you live known? the upper house? the lower house?
2. How many members are there in the upper house of the legislature of the State in which you live? the lower house?
3. How many senators are elected from the senatorial district in which you live? how many representatives?
4. How often does the legislature meet in the State in which you live? When? Is the length of the session restricted? How may an extra session be called?
5. What special privileges and immunities do State legislators enjoy?
6. What salary do legislators receive in the State in which you live?
7. What restrictions are there upon the legislative powers of the legislature of the State in which you live?
8. What legislative power may counties, townships, and cities exercise?
9. Mention a number of subjects which may be legislated upon by State legislatures.
10. How are the two houses of a State legislature organized and what control have they over their own members?
11. Who is the presiding officer of the lower house in the State in which you reside? of the upper house? How are they selected? What powers do they have? May they vote?
12. Name some other legislative officers.
13. How are committees chosen? Name several important committees of the legislature of the State in which you live. Do all State legislatures have the same kind of committees?
14. What is the defect of our committee system, according to ex-Governor Sulzer of New York?
15. What is a joint committee?
16. Explain how committee hearings are conducted in Massachusetts.
17. How are bills proposed?
18. What is a legislative reference bureau? Does the State in which you live have one?
19. Who may introduce bills? What restrictions do some legislatures have regarding the introduction of bills?

20. Name the stages through which a bill passes in becoming law.
21. What is meant by *lobbying*? How does Wisconsin regulate the practice of lobbying?
22. Explain the referendum. The initiative. Does the State in which you live have either or both?
23. Explain Governor Hodges' criticism of State legislatures and his proposed remedy for the evils of the present system.

QUESTIONS FOR DISCUSSION

1. Bound the senatorial district in which you live. Who is your State senator?
2. Bound the house district in which you live. Name your representative or your representatives.
3. Has the State in which you live been "gerrymandered" for the advantage of either party, or for the advantage of the rural districts over the cities?
4. If the salary of a State legislator is low it will not prevent candidates who have special interests from seeking election, but what effect does the low salary have upon one who is not backed by any special interests? Will a legislator who receives a low or a high salary be more likely to vote as the people desire?
5. State constitutions commonly restrict the session of State legislatures to 60 days, which means that bills must be passed or rejected because of the calendar rather than after due consideration. Would it not be well for all States to pay their legislators by the year and permit them to prolong the session as long as need be?
6. In the United States there are 48 State legislatures which enact from 35,000 to 45,000 pages of State laws every two years. Do you think this is too many legislatures? For instance, if one legislature made laws for all New England, would it not save expense and the confusion resulting from six different sets of laws?
7. Pennsylvania employs 258 legislators divided into a senate and a house, a governor, and a supreme court to provide its laws. The two legislative bodies are supposed to check each other; the governor with his veto checks them both; and the supreme court checks them all by decisions as to the constitutionality of legislative Acts. The salary of the legislators alone amounts to \$774,000 a session. According to the recommendations of ex-Governor Hodges of Kansas how might this method of lawmaking be improved?
8. Experienced legislators cannot be elected, but they can be re-elected until they become skillful legislators. What is the inference of this statement?

9. By an Act of the Illinois Legislature passed in 1901 the State election officers are required to submit to the voters, for a mere expression of opinion, questions of public policy if a petition signed by ten per cent of the registered voters is presented; and in 1926 a vote was taken on the desirability of wine and beer. (See Question for Discussion 5, page 576.)

10. If possible examine a copy of the Acts of the legislature and mention a few of the laws passed at its last session. (Any lawyer, court clerk, or justice of the peace should have a copy.)

11. Do you think a legislator should vote according to the will of the majority of his constituents or that he should use his own discretion regardless of their wishes?

12. Why may a certain number (generally one fifth) of the members voting in either house of the State legislature demand that the vote of each member be recorded in the journal?

13. The constitution of Idaho (Art. V, Sec. 25) requires the judges of her trial courts to report annually to her supreme court such defects and omissions in the State constitution or statutes as they have observed. The supreme court considers these suggestions and makes recommendation to the governor for suitable legislation. Do you favor this practice?

14. Draft a bill in due form for the enactment of any law which you would like to see passed by your State legislature. Be careful to prepare a measure which does not conflict with any higher law. The wording should begin: "Be it enacted by the legislature of the State of —, that," etc.

15. The Constitution of Washington State required an apportionment of membership in the State Legislature according to population every five years, but for thirty years the Legislature failed to act and one Seattle district with 166,000 people had the same number of representatives as Wahkiakum and Skamania, counties with a combined population of 6753. So in 1930 the voters reapportioned the State more nearly in proportion to population. The reapportionment measure carried by a majority of only 795 votes, and only 6 of the 39 counties of the State cast a majority vote in favor of the bill.

At the 1931 session of the Legislature, before the new apportionment took effect, the Legislature submitted to the voters another apportionment amendment providing that each county shall have at least one representative in the House, and that no county shall have more than twenty-one per cent of the members. If you had lived in Washington would you have voted for this amendment?

In a State where one city has more than half the population, do you

think representation in both houses should be based on population? What arguments can you advance for territorial representation in one house and population representation in the other?

16. Some States now have voting machines for their legislatures. For instance, the Wisconsin Assembly has for some years saved about 125 hours a session by the use of a machine which records the votes of all members in less than a minute instead of ten minutes for a vocal roll call.

When an issue comes to a vote the Speaker turns a key on his desk and proclaims: "Roll call." Thereupon each legislator presses one of three buttons on his desk; and thereby registers either: "Yes," "No," or "Present but not voting." The Speaker inquires: "Has every one voted?" The Speaker then locks the machine which operates to produce a photostatic copy of the roll, showing the vote of each individual and the total recorded vote.

In the gallery, visible to each member, is the name of each member with a white light (yes) and a red one (no) which flash on at the touch of the button on the member's desk.

The machine cost \$12,000 and one electrician is required to operate it during a session.

Do you think that your legislature should purchase such a machine? Give your reasons.

17. The Constitutional provision is that a State cannot be divided, nor two States combined, without the consent of Congress and of the legislature of the State concerned. But when Texas was admitted into the Union, Congress granted her permission to split into five States if she ever desires to do so. Why does not Texas divide and thus have ten senators?

18. The approximately 420 members of the New Hampshire legislative body receive \$200 every two years plus traveling expenses home every week-end or as often as they actually go during a legislative session. Illinois pays about half this number of members \$3500 down on the first day of the biennial session plus traveling expenses for as many trips home as they desire to take. Advance arguments for the New Hampshire system, for the Illinois system, for the system of your State, for the Hodges plan proposed for Kansas, or suggest a plan of your own.

19. Some States had a single-chamber legislature at first, but shifted to the bicameral system after the Constitution adopted it for Congress. Seven of the nine Canadian provinces have a single chamber legislature. Is there any reason why the unicameral legislature should be workable in Canada and not in the United States?

20. In a sense, civilization makes it harder to keep out of jail because the increasing complications of modern life demand an increasing number of regulatory laws. We must have more laws. On the other hand we multiply laws because it is easier to pass a law against a recognized wrong than to educate the children in a wholesome restraining religion or philosophy of conduct. Do you think an additional billion dollar expenditure would accomplish more by investing it in prisons or in religious teachers, kindergartens, scout and campfire leaders, Salvation Army workers, Y. M. C. A. workers, and similar organizations supported by the various religious sects?

CHAPTER XX

STATE GOVERNORS

The Office of Governor. — Every State has a governor as its chief executive officer. He is elected by the voters of the State.¹ During colonial days the royal governors did the bidding of the



GOVERNOR'S MANSION, RICHMOND, VIRGINIA.

King and often merited the dislike of the people. When the colonists grew weary of British rule their legislatures were able to protect them against despotic acts of the governors.

¹ In Mississippi the governor must receive a majority of the popular votes of the State as in all other States, but in addition to this requirement he must receive a majority of popular votes in more than half of the districts from which representatives are elected for the most numerous branch of the legislature.

Thus when they gained their independence they naturally regarded governors with suspicion and looked upon the legislatures as guardians of their liberty. Therefore governors were granted little power in the early constitutions. In addressing the Federal Constitutional Convention of 1787 Madison said, "The executives of the States are in general little more than ciphers; the legislatures are omnipotent."

However, the public have gradually lost confidence in their State legislatures because the character of the legislators has deteriorated. This is due to the fact that the States extended suffrage more rapidly than they educated the voters in the proper use of the ballot. Prejudice against governors has disappeared, and it is realized that it is easier to elect one honest and efficient leader who can be held responsible to the people than it is to elect numerous responsible legislators.

So, recently the governors have been regarded as the guardians of the people's liberty. Such governors as Roosevelt and Hughes of New York, La Follette of Wisconsin, and Woodrow Wilson of New Jersey, have exalted the office of governor in the public mind; and constitutional changes have increased the legal powers of the occupant.

The Governor's Powers. — The powers of a governor are usually classified under three heads: (1) executive powers, such as appointing officers and seeing that the civil and criminal laws of the State are enforced; (2) legislative powers, such as sending messages to the legislature and vetoing objectionable laws; and (3) judicial powers such as pardoning persons convicted of crime.

Executive Powers of the Governor. — A State constitution almost invariably provides that the governor shall take care that the laws of the State are faithfully executed, but to him is never given such power for the performance of this duty as is given to the President of the United States. (See page 184.)

In most of the States the more important State officers, such as the secretary of state, attorney-general, auditor, and treasurer, are still elected by the people. Judges also are elected by the

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STATE GOVERNORS

STATE	CAPITAL	TERM OF SERVICE (YEARS)	ANNUAL SALARY
Alabama	Montgomery . .	4	\$ 7,500 and residence ¹
Arizona	Phoenix	2	7,500
Arkansas	Little Rock . .	2	6,000 and house rent
California	Sacramento . .	4	10,000 and residence
Colorado	Denver	2	5,000
Connecticut	Hartford	2	5,000
Delaware	Dover	4	7,500
Florida	Tallahassee . .	4	9,000 and residence
Georgia	Atlanta	2	7,500 and residence
Idaho	Boise	2	5,000
Illinois	Springfield . .	4	12,000 and residence
Indiana	Indianapolis . .	4	8,000 and residence
Iowa	Des Moines . .	2	7,500 and house rent
Kansas	Topeka	2	5,000 and residence
Kentucky	Frankfort . . .	4	6,500 and residence
Louisiana	Baton Rouge . .	4	7,500 and residence
Maine	Augusta	2	5,000 and residence
Maryland	Annapolis . . .	4	4,500 and residence
Massachusetts	Boston	2	10,000
Michigan	Lansing	2	5,000
Minnesota	St. Paul	2	7,000
Mississippi	Jackson	4	7,500 and residence
Missouri	Jefferson City .	4	5,000 and residence
Montana	Helena	4	7,500 and residence
Nebraska	Lincoln	2	7,500 and residence
Nevada	Carson City . .	4	7,000 and house rent
New Hampshire	Concord	2	5,000
New Jersey	Trenton	3	20,000
New Mexico	Santa Fe	2	5,000 and residence
New York	Albany	2	25,000 and residence
North Carolina	Raleigh	4	6,500 and residence
North Dakota	Bismarck	2	5,000 and residence
Ohio	Columbus	2	10,000 and residence
Oklahoma	Oklahoma City .	4	7,500 and residence
Oregon	Salem	4	7,500
Pennsylvania	Harrisburg . . .	4	18,000 and residence
Rhode Island	Providence . . .	2	8,000
South Carolina	Columbia	4	7,500 and residence
South Dakota	Pierre	2	3,000 and house rent
Tennessee	Nashville	2	4,000 and residence
Texas	Austin	2	4,000 and residence
Utah	Salt Lake City .	4	6,000
Vermont	Montpelier . . .	2	5,000
Virginia	Richmond	4	10,000 and residence
Washington	Olympia	4	6,000 and residence
West Virginia	Charleston . . .	4	10,000 and residence
Wisconsin	Madison	2	7,500 and residence
Wyoming	Cheyenne	4	8,000 and residence

¹ Furnishings, heat, and light are usually supplied, and the wages of servants are paid in some States.

people in most States. Sheriffs and state's attorneys are elected by the people with few exceptions. Thus, the governor is merely one of a number of officers whom the people elect to enforce the laws, and if the other officers do not perform their duties in an efficient and honest manner the governor is often helpless.

A story is told of a sheriff who permitted a prisoner to be taken from his jail and lynched. The governor wrote a letter to the sheriff reprimanding him for his neglect of duty. The sheriff promptly replied by telling the governor to mind his own business; that he was responsible to the people of his county who had elected him and to nobody else. According to the law of his State the sheriff was right. It may be said that a governor is the captain of a Ship of State which is navigated by a crew that he does not select, and over which he has few powers of command.

As commander-in-chief of the State militia, the governor has a real power. When a riot occurs, when a prisoner is in danger of being lynched, or when a strike cannot be handled by local officers, the governor may call out the militia.

State Police. — A third of the States have regular State police. For example, the governor of Massachusetts has a small body of State police to assist him in the enforcement of the State laws. It acts as a detective force to aid in the suppression of disorder and in the enforcement of criminal laws. It also performs such other functions as the inspection of factories and the investigations of fires. The governor of Texas has four companies of Rangers to patrol the Mexican Border. The largest State police forces are those of Pennsylvania and New York.

The Pennsylvania State Police Force was created in 1905. Previously the governor was supposed to maintain peace and order throughout the entire State — 45,000 square miles — with no one to assist him but his secretary and his stenographer, as one governor jocularly remarked.

This force of 422 officers and men is divided into five troops, which occupy barracks in different sections of the State. There are also numerous sub-stations in the region of each barrack.

These police not only act upon the orders of the governor, but coöperate with peace officers of any community to prevent riots, lynchings, or unusual crimes. Disguised as civilians, they often detect serious crimes, where county detectives are not provided. They enforce motor-vehicle laws, quarantines, school laws, and dog laws. They raid disorderly resorts, gambling houses, and "bootlegger" joints; pursue criminals; act as game and fish wardens; and extinguish forest fires.



A MOUNTED SQUAD OF PENNSYLVANIA MOUNTED POLICE.

For certain kinds of service the noble steed is still essential.

Members of this force are carefully selected and instructed in their duties. They are required to pass a mental and physical examination and to prove their honesty, moral character, and sobriety. They must also undergo a course of study given by the School Troop in the following subjects: cavalry drill, horsemanship, practical self-defense, and marksmanship; criminal law, fish, game and forestry law; investigation of crimes and criminal procedure; methods of handling individuals, crowds, and mobs; geography and civil government.

The New York State Police, with their 570 men organized into six troops, rival those of Pennsylvania. They patrol the Canadian border, patrol highways with loadometers to prevent injury to the roads by the overloaded trucks, protect railroads against freight thefts, enforce sanitary and fire protection of moving picture theaters and dance halls in small towns, prevent cruelty to animals, look after poor and destitute families, and recover millions of dollars' worth of stolen property including hundreds of automobiles.



MICHIGAN STATE POLICE CRACK PISTOL TEAM.

Note the figures to the rear for target practice.

The Michigan State Police have ingratiated themselves with the public through emergency services. For instance, every police car is equipped with a fire extinguisher, a respirator, and a first-aid kit. In an emergency, the car can be converted into an ambulance. For the troubled motorist they carry tire patches and extra gasoline.

Appointments. — The power of the governor to make appointments is slightly on the increase, though he usually does not have

power to remove most of those whom he appoints; and as the appointments are distributed through his term he is appointing as many officers to serve for his successor as for himself.

Institutions. — State benevolent, educational, and penal institutions have commonly been administered by a great number of boards appointed by the governor. The system has proved inefficient and expensive, and many of the States have centralized the control of these institutions in an ex-officio or appointive board of control. An interesting example of this is the Board of Administration created in Kansas in 1917. This board is composed of four members, of whom the governor is one and chairman. The other three members are appointed by the governor and senate. It supersedes the separate boards for the benevolent, educational, and penal institutions of the State. The law requires this board to employ a business manager for all the institutions under its control, who is expected to be the real administrative head of the board.

Legislative Powers of the Governor. — The governor is considered the head of the executive branch of government, yet his legislative powers have increased more rapidly than his executive powers. He has three legislative powers: (1) to send messages to the legislature, (2) to call an extra session of the legislature, and (3) to veto bills passed by the legislature.

Governor's Messages. — The message power has not been used by governors to the extent that the constitutions allow. A weak governor will send a formal message to the legislature when it meets, recommending legislation which the annual reports of the State officers bring to his attention. His message is read to the two houses sitting together, and the various recommendations are distributed to the appropriate legislative committees by the speaker of the House of Representatives. This is often the end of the matter. The governor has done "his duty" — no more.

A strong governor will send a number of short messages, and "get back of them" — one at a time. In fact, a governor has the right to make his recommendation in the form of a bill if he

chooses, but it is wiser to take a number of members into his confidence and have a chairman of a legislative committee introduce a bill containing his ideas.

In 1913 the Illinois House of Representatives adopted a rule providing that a bill which a governor has had introduced shall have precedence in the consideration of the House over all other measures except appropriation bills.

Extra Sessions. — For any reason that a governor thinks sufficient he may call an extra session of the legislature. When Roosevelt was governor of New York, he recommended a certain tax reform when the legislature was in session. The legislature failed to enact it, therefore he called them back in extra session to consider this particular bill. Governor Hughes of New York under similar circumstances called a special session to enact an anti-gambling law. The governor of Colorado called a special session to consider the settlement of large labor strikes. Extra sessions are rather common, especially in Alabama, where the legislature meets in regular session only once in four years.

The Veto. — With the exception of North Carolina all States give the governor power to veto bills passed by the legislature, though such veto may be overridden by a subsequent vote of the legislature.¹ When a bill is sent to the governor for his signature he is allowed a period varying from three to ten days in which to consider it before taking action.² In case the governor does not approve a bill he may veto it in its entirety, but in South Carolina and Washington he is allowed to veto any portion of any bill if he so desires.

In order to check extravagance most of the States allow the governor to veto specific items in a general appropriation bill.

¹ In two thirds of the States the legislatures are permitted to override the veto of the governor by the repassage of a vetoed bill with a two-thirds vote in each house. In Delaware, Maryland, and Nebraska a majority of three fifths is required, and in a few States a bare majority is sufficient to overcome his veto.

² The period allowed the governor after adjournment is longer in some States.

However, this power of the governor encourages legislators to vote appropriations in excess of the revenues in order to comply with the wishes of the various institutions seeking State aid, and thus "put it up to the governor" to veto numerous items so that the total amount appropriated will come within the revenues of the State.

In some States the veto is used quite freely. On occasions more than half of the bills passed have been vetoed. In 1931 one governor vetoed 69 of the 208 bills passed, and eliminated a number of items from other bills. The vetoed bills included one creating a State income tax, one regulating marriage, a uniform traffic code passed in agreement with neighboring States, a bill to permit the city manager form of government, one permitting a district to develop irrigation, a reapportionment bill, and one requiring voters to declare their party preference when registering.

Judicial Powers of the Governor. — Nearly all of the governors have some power of mercy towards persons accused or convicted of crime. It may be to remit fines, to shorten jail or penitentiary sentences, to pardon a prisoner conditionally or absolutely, to postpone the execution of a death sentence, or to change a death sentence to a penitentiary sentence. That is, a governor may have all or some of these powers, but these powers are commonly shared by a State board of pardons. A governor of New York once pardoned a prisoner on condition that he would not make capital of his notoriety by posing for motion pictures or appearing on the vaudeville stage.

The primary purpose of the pardoning power is to release prisoners who have been proved innocent after being sentenced; but one governor pardoned some hundreds of prisoners because he thought the penitentiary as then conducted would do the convicted persons more harm than good, and another pardoned about a thousand because he thought the sentences were out of proportion to the offenses. This arbitrary use of the pardon power is dangerous because it encourages the so-called "lynch

law." If one man can overturn the opinions of many jurors, there is danger that the people will take the enforcement of law into their own hands.

Conference of Governors. — In 1908 President Roosevelt called a Conference of Governors at the White House to confer in regard to the conservation of the natural resources of the country. Since then the governors have held annual conferences at one of the State capitals for the purpose of discussing uniform laws, interstate good-will, and the interchange of State experience.

Executive Officers. — In most States the following offices exist and, except in those States that have made progress in administrative consolidation, the officers are popularly elected and are more or less independent of the governor :

The Lieutenant-Governor. — There is a lieutenant-governor in three fourths of the States, and he is elected by the people. He serves when a governor is absent from his State or incapacitated for duty. He is *ex-officio* president of the Senate in all of these States except Massachusetts, but has a vote only in case of a tie. In most States he succeeds to the governorship if for any reason the office becomes vacant. In one fourth of the States the duties of a lieutenant-governor are performed by the president of the Senate, who is elected by the Senate.

The Secretary of State is the chief clerk and records the official acts of the governor and legislature, has charge of various State papers and documents, and performs other miscellaneous duties.

The Auditor or Comptroller (found in all but three States)¹ audits the accounts of State officers charged with the collection or disbursement of State funds. No money may be drawn from the State treasury without a warrant drawn by him ; and he will not issue a warrant until he is satisfied that the expenditure is in all respects legal. In the different States he performs various other functions connected with the proper collection and disbursement of the public funds.

¹ The Secretary of State is *ex-officio* auditor in Oregon and Wisconsin, and in New Hampshire the duties are performed by the governor.

The State treasurer receives the State moneys for safe keeping and pays them out only upon warrants (orders) from the comptroller, auditor, or other designated officer.

The Attorney-General is the principal law officer of the State. He gives legal advice to the governor and other executive officers,



STONE QUARRY OF CALIFORNIA PRISON AT FOLSOM.

Without competing with private enterprises, a State can use stone for roads, for walls at dangerous curves, for ornate bridges, for public buildings, and in various other ways.

and represents the State in court if the case is of sufficient importance.

*The Superintendent of Public Instruction*¹ is the head of the public school system of the State, along with a school board which is found in most States. He issues regulations for the schools and sees that the school laws are enforced. He distributes school funds and collects school statistics for his regular reports.

¹ In some States this school officer bears a different title.

Additional Officers and Boards or Commissions exist in great numbers but vary from State to State. A State function may be performed by a director or a superintendent or a commissioner or by a board or by a commission. The following are typical:

(1) *Boards for State Institutions* such as charitable, correctional, or educational institutions;

(2) *Boards to Supervise State Functions* such as board of health, board of agriculture, and highway commission;

(3) *Boards to Supervise Commercial Corporations* such as railway or public service commission, banking commission, and insurance commission; and

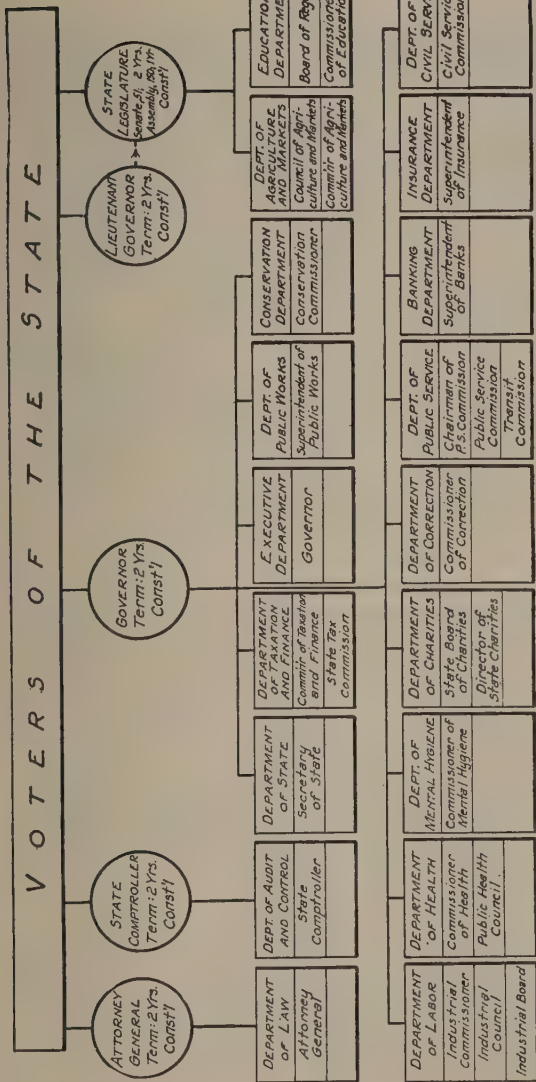
(4) *Examining Boards* such as board of medical examiners and civil service commission.

Administrative Consolidation. — As new problems developed, State governments added officers and boards which were independent of one another. Often their duties conflicted and overlapped. Recently many States have reorganized their administration into a few departments representing major functions of the government. The governor, who should be the only elective State administrative officer, appoints the heads of most departments. They are responsible to him, and he coördinates their work.

As a check on the administration and its use of funds, a State auditor should be appointed by and be responsible to the State legislature. He should audit all accounts kept by the administration and report on the financial condition of the State to the legislature and to the people.

Whenever there are functions of a legislative, judicial, advisory, or inspectional character within a department, a board or commission may advantageously be attached to the department to perform any one of these duties.

A chart of the 1927 consolidation of the administration of the State of New York follows:



(Circles Indicate Elected Officials; Rectangles Show Those Who Are Appointed.)

Courtesy National Municipal League.

Through a constitutional amendment in 1925 and legislative acts in 1926, New York consolidated 180 State administrative agencies into 18 departments. The governor appoints, with the consent of the Senate, the heads of 14 departments which he has directly under his supervision. Most of these department heads, the executive secretary, and the budget director constitute the governor's cabinet.

The budget, military and naval affairs, standards and purchase, and State police come directly under the governor as head of the executive department. The commissioner of education is chosen by the board of 12 unpaid regents, who are chosen by the legislature for overlapping terms of 12 years.

Proper Relationship of the Governor to the Legislature and to Boards or Commissions Illustrated. — “Whether or not the State shall have a system of State highways is for the Legislature to decide. Whether roads shall be State highways is also for the Legislature to decide. Who shall construct the highways and how much money shall be expended are likewise questions for the Legislature to decide. If the Legislature prescribes a highway program, and creates a highway commission to be appointed by the Governor to carry out the program, it is the commission’s duty to build the highways, not the Governor’s.

“The Governor has nothing to do with how, when, and where the roads shall be built. His duty is to appoint the commissioners, and see that they carry out the program prescribed by the Legislature. He should, however, have administrative power to see that the commission sets up an efficient organization and does not waste the State’s money. He should therefore have the power of removal as well as the power of appointment.”

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QUESTIONS ON THE TEXT

1. By what title is the chief executive officer of each State known?
2. What did Madison mean when he said, “The Executives of the States are in general little more than ciphers; the legislatures are omnipotent”? Does this condition remain true?
3. How do the powers of a governor compare with those of the President?
4. What executive powers has the governor?
5. What is meant by the statement that “a governor is the captain of a Ship of State, which is navigated by a crew that he does not select, and over which he has few powers of command”?
6. Describe the manner in which the State police of some States assist the governor in enforcing the laws.

7. Is the appointive power of the governor on the increase or decrease?

8. Have the legislative or executive powers of the governor increased more rapidly?

9. Name the three legislative powers of the governor.

10. Explain the use which a strong governor makes of messages.

11. Under what circumstances does a governor call an extra session of the legislature?

12. Under what condition may a bill become law in the State in which you live if vetoed by the governor?

13. What advantage results from the power possessed by most governors to veto specific items in appropriation bills? What unpleasant duty is often shifted from the legislatures to the governor as a result of this power?

14. What judicial powers has a governor?

15. Under what conditions should a governor grant pardons?

QUESTIONS FOR DISCUSSION

1. Who is the governor of the State in which you live? May he succeed himself as governor?

2. In New Jersey no executive officers of the State are elected by the people except the governor. With all the interest centered in the governor, it is easy to express intelligent opinions at the polls. Would you favor having the State executive officers appointed by the governor in your State?

3. Should a governor have power to remove sheriffs, prosecuting attorneys, and mayors when in his judgment they are guilty of neglect or inefficiency in the discharge of their duties?

4. Should a governor have power to grant pardons alone or only upon the recommendation of a State board of pardons?

5. The Virginia law forbids gambling, but in one county gambling in connection with horse races was carried on openly. If the governor of Virginia had the guilty ones arrested the local justice of the peace would refuse to sentence them. The governor seemed to be powerless, but he was clever. A State law authorized the governor to appoint additional justices in case a sufficient number had not been elected. So he appointed a friend in this county, sent his officers to make arrests and the guilty ones were properly sentenced by the new justice. Would you have done as this governor did?

6. The Oregon legislature appropriated about \$1,000,000 for certain phases of higher education. They appropriated it as a single item

so the governor could not veto a part of it. The legislature also passed it as an emergency measure so that opponents of the measure could not have it referred to the voters and thus defeat it or postpone operation until the vote at the election nearly two years off. It seemed to be "tied up tight."

The governor, however, was ingenious and told the board of higher education that he would veto half of the item and let the rest be paid if they would not test his right to do so in court. If they refused this he said that he would veto the emergency clause for the entire amount. The board refused to accept his partial veto, so he vetoed the emergency clause. Thereupon the opponents of the measure petitioned a referendum of the measure and left its fate to the voters nearly two years later. Assuming that the legislature honestly believed that the million dollars should be appropriated and that the governor honestly believed that half of it should not be appropriated, would you have pursued the course of the governor?

7. The governor and the secretary of state of a certain State were elected directly by the people and were independent of each other. The secretary of state issued automobile licenses. Because of "hard times" the governor wanted the secretary of state to extend the time one month for the purchase of the new annual license. The secretary of state refused. So the governor said he would pardon any one prosecuted for not having his license plate during this month. Would you have done as this governor did?

8. New York State keeps a small percentage of its employees' salaries each month and pensions them when they retire. When Governor Smith retired after serving the State in some capacity for a quarter of a century he was granted an annuity of \$6100 for the rest of his life. Does your State have such a pension system?

9. New York State has a school for police which trains police for any locality. Would you consider such training worth while for the policemen of your State?

10. The Pennsylvania and New York State Police forces cost each State a million dollars annually. Would you consider such a force worth that amount to your State?

11. New York towns can have State Police permanently by paying their salaries. Why may these State Police be superior to police chosen locally?

12. The Pennsylvania State Police force photographs and files the finger-prints of Pennsylvania criminals. What is the importance of this?

13. Between the years 1870 and 1890 the State of Pennsylvania supplied the bulk of the lumber for the entire United States. Six mil-

lion acres are to-day desert because of unextinguished cigarettes and careless methods of logging. With the forests gone, the soil washed from the hillsides, springs dried up, water power declined, and in summer some regions had to be supplied with water by trains of tank cars. While Gifford Pinchot was Forest Commissioner and then Governor of the State, he had millions of seedling trees produced and planted in State forests or given to farmers to plant in their wood lots. He tried to persuade the State to appropriate \$25,000,000 to purchase and plant five million acres of rough hillsides. He estimated that after forty years it would yield an annual income equal to the total appropriation. Would you favor such a program for your State?

14. It was once a common practice for stock brokers to defraud the public by selling stocks having little more tangible assets than so many feet of blue sky. To-day most states have so-called blue-sky laws to prevent this evil. Kansas led the way in 1911. It requires concerns selling stock within the State to file financial statements with the bank commissioner, who may grant a license to sell securities in the State if the concern has assets which seem to promise a return upon the investment. Illinois administers its law through the Secretary of State. It classifies securities into groups according to the degree of speculative character of each, and endeavors to make certain that the prospective investor will know to what group a security belongs before purchasing. There is no prohibition of the sale of any security unless there is actual evidence of fraud. The State "does not try to prohibit the individual's acquiring a gold brick if he wishes, provided only that it is clearly labeled as such." What type of blue-sky law has your State and who administers it?

15. Wisconsin has a State insurance fund for the insurance of public property of the State, counties, cities, villages, and school districts. Do you see any difference between the State's insuring public property and insuring private property?

CHAPTER XXI

STATE COURTS

Dual System of Courts. — Each of the forty-eight States of the Union has its own system of courts to interpret its laws, to apply them to controversies brought into court, and to administer justice. The primary duty of the highest State courts is to interpret the laws, and that of the lower courts to apply them to the controversies brought to them for settlement.

Besides these State courts, and independent of them, is a system of Federal courts extending throughout the United States. These Federal courts have jurisdiction of a limited class of cases enumerated in the Constitution of the United States. (See United State Constitution, Art. III, Sec. 2.) The State courts hear all other cases.

Organization of State Courts. — The lowest courts of each State are commonly called Justices' Courts. Each township or other local district has at least one such court presided over by a magistrate, usually called the justice of the peace. He generally has jurisdiction ¹ over most misdemeanor cases ² and small controversies between man and man — civil cases ³ — concern-

¹ Jurisdiction (Latin *jus* and *dictio*) is the right or power of a court to hear and determine cases brought before it.

² Crimes are of two kinds, misdemeanors and felonies. A felony is the greater crime and may be punished by death or imprisonment; a misdemeanor is the lesser crime and is punished by a fine or a relatively short term in jail.

³ A civil case is a suit brought by one person against another for the enforcement or protection of a private right, or for the prevention or redress of a private wrong. It is distinguished from a criminal case, which is a suit brought by the State against one who is accused of having committed a crime. Officers of the government always prosecute the accused in a criminal case. (See page 483.) In a civil case the counsel (lawyer) must usually be paid by the person who employs him. In some cases the judge compels the party losing a case to pay the counsel of the party who wins.

ing money demands (seldom over \$50 or \$100), the ownership of personal property, and wrongs or injuries to property. He is generally denied jurisdiction to determine questions of title to real estate, titles to office, torts to the person, and other like matters of great importance.

Above these local courts are County Courts (called Courts of Common Pleas, or District Courts in some States) which have jurisdiction of civil cases involving greater sums, and of major misdemeanors and minor felonies, or of all felonies. Appeals from the judgments of the justices of the peace can be taken to these County Courts unless it is a matter of the most minor character over which the justice of the peace has final jurisdiction.

In many States Superior Courts exist above the County Courts. These are commonly called Circuit Courts because the judge goes on circuit to the county seats of the counties composing his circuit. In some States these Circuit Courts take the place of the County Courts. These courts have jurisdiction over civil cases involving unlimited sums and over major felonies, or all felonies, in many States.

As the capstone to a State's judicial system there is always one appellate court of last resort, the name of which varies from State to State. For instance, in some States it is known as the "Court of Appeals," and in others as the "Supreme Court of Appeals." This court is appellate because practically all of its cases are appealed to it from the lower courts, few if any originating in it.

In addition to the regular State courts just enumerated, nearly half of the States have a special court for each county known as the Probate Court (called Orphans' Court or Surrogate Court in some States) to probate (prove) wills and qualify executors to execute the wills, or to appoint administrators to administer the estates of persons who have died intestate (without a will). In the other States the County Courts usually perform these functions.

Every State provides for its cities, especially its larger cities, special courts which are known as Municipal Courts. There is usually a Police Court to try persons who have violated city ordinances or minor criminal laws of the State which would ordinarily come before a justice of the peace. There are in some cities special Civil Courts to hear minor civil cases which would ordinarily be heard by a justice of the peace. In a large city there is at least one special court of equal rank with a County or a Superior Court from which appeals may be taken directly to the appellate court of last resort. Some cities have Domestic Relations Courts to settle family quarrels, as between man and wife, parents and child, adult and child.

Courts of Small Claims. — An increasing number of cities have Courts of Small Claims in which one can bring his complaint at an extremely low cost or no cost at all. These courts have no formal pleadings and usually no lawyer. The judge himself directs the examination of the parties and witnesses without formality.

The usual court costs constitute an expense which prohibits small litigation. Small tradespeople have been forced to the practice of wiping all small claims off their books or selling them at about one half to collecting agencies. And the widow who runs a small lodging-house can hardly afford to sue for a month's room rent. Or, the maid hired at \$10 a week who is put off the first week and not paid the second has a valid claim for \$20, but often has not a dollar in her pocket. Because she has not been paid, she cannot pay court costs, in addition to an attorney's fees.

In 1913 the attorney-general of Kansas, learning of a washer-woman who was owed \$3 by a well-to-do man, whom she could not afford to sue because she could not pay the necessary fees, was inspired to have a law enacted allowing counties and cities to create small debtors' courts. According to this law a judge is appointed by the board of county commissioners or the mayor. He serves without pay and may hold court in his home, office,

or some place provided by the county or city. The plaintiff appears before the judge and states his case. If the judge believes him, he docketes the case and the defendant is summoned by mail or telephone. No lawyers may intermeddle in any manner, and the judge can consult witnesses by telephone if he desires. Debts not exceeding \$20 are adjusted and no fees are charged. Therefore, a newsboy was able to sue a subscriber for forty-five cents.

Portland, Oregon, has a Small Claims Department of the District Court. Claims up to \$20 are heard and costs are limited to 75 cents. The plaintiff may not appeal; and if the defendant appeals he is liable to the \$15 attorney's fee and must give a bond to secure all costs. Attorneys are forbidden to appear without the special consent of the judge. Out of 1828 cases in seventeen months there were only two appeals.

The informality of these courts is illustrated by the Cleveland, Ohio, small claims court which is known as the Conciliation Branch. In this court a claim of \$25 was brought by a landlady against a boarder who set fire to the mattress by smoking in bed. The defendant was willing to pay, but disputed the amount. The judge called up a department store, ascertained the price of the mattress, and the matter was settled immediately.

Chicago's small claims branch of the Municipal Court hears cases involving as much as \$200 in a prompt informal manner.

Juvenile Courts to try children have recently been established in many cities. In times past children were tried by the same court as adults, and were sent to the same prisons, where they learned the vices of hardened criminals. To-day these special Juvenile Courts are supposed to be presided over by judges who are especially interested in the welfare of children. Instead of sending a bad or criminal child to the jail or penitentiary the judge gives him over to a State reformatory unless he thinks he can himself save the child by good advice and the help of a probation officer, an officer who watches children found guilty of minor offenses and placed on probation.

In a very short time one forenoon the judge of a Juvenile Court disposed of the following four cases. No. 1 was a fight between two small colored boys. The mother of the larger boy, being present, was directed to go into an adjoining room and whip her boy in the presence of an officer. No. 2 was a white girl brought by her own parents. The girl, agreeing to do better, was



Keystone View Company.

CHILDREN'S COURT, NEW YORK CITY.

directed to return to her home and to report weekly to a woman probation officer. No. 3, a colored girl, who had previously been on probation, was accused of stealing. She was turned over to the State Board of Charities and Corrections. No. 4, a young colored man accused a colored boy of annoying his "place of business," a shoe-shining stand. Their statements conflicted. When one referred to a reputable witness, they were ordered to return three days later with the witness.

State Judges. — State courts are usually conducted by one judge, except the appellate court of last resort, which consists of

three, five, seven, or nine judges, five being the more usual number. These judges are chosen in one of three ways: elected by the voters, chosen by the legislature, or appointed by the governor with the consent of the senate. Their term of office varies from one year to life or during good behavior, the judges of the higher courts having longer terms than those of the lower courts. Salaries vary from nothing (merely fees) for justices of the peace to \$22,500 for the Chief Justice of the New York State Court of Appeals. The principal duty of a judge is to decide points of law, and also points of fact if there is no jury, and to issue orders for the enforcement of his decisions. He often performs other duties, such as appointing certain local officers, and serving on local boards.

Juries. — A jury is a body of persons selected according to law, and sworn to declare the truth on the evidence laid before it. There are two kinds of juries¹ — the grand jury and the petit, or trial, jury.

The Grand Jury. — A grand jury is a body of persons summoned into a court to consider the evidence against persons accused of crimes, and to determine whether the evidence is sufficient to justify a formal trial for such persons. This jury consists of twenty-three jurors or less, according to the State law and the importance of the charges to be investigated. In most States it consists of more than twelve jurors, of which at least twelve must agree that an accused person is probably guilty or he cannot be held for trial, but in some States it may consist of



By Lady Stanley.

HIS FIRST OFFENSE.

An English newsboy before the bar of justice for the first offense.

¹ The so-called coroner's jury is not a real jury. See page 502.

as few as six. When the jury consists of as few as six jurors, five must agree or the accused cannot be held for trial.

When a grand jury is impaneled (selected) the judge instructs the jurors to find a *true bill of indictment* (charge) against all persons whom the prosecuting attorney brings to their attention and whom they think probably guilty. He further instructs them to bring a *presentment* (accusation) against any person whom they of their own knowledge believe to have violated the criminal laws of the State within their county. They swear or affirm that they will do so, and retire to the jury room, where they deliberate in secret. The chairman of the jury, who is appointed by the judge or chosen by themselves, is known as the *foreman*.

The prosecuting attorney for the county brings into the jury room witnesses to testify against the accused and usually questions them himself, but after he retires the jurors may resummon the same witnesses and question them further or may have the court summon other witnesses to testify against the accused. Nobody is allowed in the room with the jurors except the prosecuting attorney, and, in some States, his stenographer. All are bound to secrecy.

After all witnesses have been summoned and questioned, the jurors are left entirely alone to deliberate, and when they have completed their finding they proceed to the court-room and their bill of indictment is read in their presence. The bill is recorded in the clerk's office and the jury is dismissed if the term has expired; or, if the term has not expired, the jury is adjourned until the court needs it again to investigate other accusations.¹

In a peace-abiding county one grand jury a year is often found

¹ It is not uncommon for a State to impose upon the grand jury duties other than the consideration of evidence against accused persons. For instance, they may be required to approve the erection of public buildings and bridges in Pennsylvania, fix the tax rate in Georgia, investigate the sufficiency of the bonds of county officers in Alabama and Tennessee, arrest persons selling liquor contrary to law or arrest intoxicated persons in Vermont.

to be sufficient, whereas in counties where large cities are located there must either be a number of grand juries during the year or else the same grand jury must sit from time to time during several months, unless the State permits persons to be brought to trial by "*information*."

As a substitute for the grand jury method of bringing persons to trial, more than half of our States permit the judge to proceed with the trial upon an accusation brought by the prosecuting officer. This is called an "*information*." In a rural community grand jurors often possess personal knowledge of crimes that have been committed, but in large cities they seldom have this knowledge and their principal function should be to act upon cases where the evidence is circumstantial or the accused an influential person, and to bring to trial persons whom the prosecuting attorney fails to bring forward for personal reasons.

The Petit Jury. — A petit or trial jury is a group of persons summoned into court to hear the evidence on both sides of a case and to decide the disputed points of fact, the judge in most States deciding the points of law. This jury tries both civil and criminal cases. Any one may usually demand a jury trial if the question of life, liberty, or property is at stake.

The number of petit jurors is usually twelve, but in a number of States a lesser number is sufficient in civil cases and minor criminal cases. In the court of the justice of the peace six jurors or less is the rule, though in several States this court, too, may have twelve jurors.

In nearly one third of the States an agreement of two thirds, three fourths, or five sixths of the jurors is sufficient for a verdict in civil cases or unimportant criminal cases. In the remaining States a unanimous verdict is required even in unimportant cases.

The Grand Jury and the Petit Jury Compared. — The same courts that have *grand juries* to *accuse* have *petit juries* to *try* the accused. But some courts which do not have grand juries do have petit juries. For instance, in most States Justices' Courts

may use petit juries, though they nowhere have grand juries; and courts which have no criminal jurisdiction have no need of grand juries. Appellate courts of last resort do not use either grand or petit juries because they are concerned primarily with points of law which have been appealed to them from the lower



Underwood and Underwood.

JURY ARRIVING AT COURT FOR \$5,000,000 EMBEZZLEMENT TRIAL.

The jury is kept together during the trial to eliminate the possibility of bribery or other improper influences.

courts. A grand jury investigates all indictable offenses committed during its existence, and usually hears only accusations, seldom defenses.

Selection of Jurors. — In scarcely any two States are jurors selected in exactly the same manner, but in all they are selected in a similar manner. Once a year, or oftener, some county official¹ or special jury commissioners, appointed or elected as

¹ This official is usually the clerk of the court, the sheriff, the judge, or county board of commissioners. In the New England States and in Michigan names of jurors are selected by township ("town") officers and sent to a county officer.

the law prescribes, prepares a considerable list of persons who are eligible for jury service. In some States any qualified voter of the county in which the court is sitting is eligible, while in others only tax-payers may serve.

In the former States the names can be obtained from the poll books and in the latter from the tax assessors' books. Persons under twenty-one and those over sixty or seventy years of age, criminals, and illiterates are commonly ineligible. In most States other classes of persons, such as State and Federal officials, professional men, foremen, firemen, and State militia-men, are not required to serve.

The chosen names are written on slips of paper and placed in a locked jury box,¹ which is usually kept in the custody of the clerk of the court. When the court needs a jury the names are drawn from the box by a designated official, and the sheriff is directed to summon such persons by a writ known as a *venire facias*. After eliminating the names of those who, for good reason, cannot serve, he makes a list of those who can serve and returns it to the clerk. This list is known as the *panel of veniremen*.

Grand jurors are commonly selected in the same manner as petit jurors, but in some States a separate list of names is prepared from which grand jurors are selected. Jurors for the justices' courts are commonly selected by the justice himself.

It is a serious mistake for any intelligent citizen to evade jury service. An accused person, who may be entirely innocent, can hardly expect justice from a jury whose members have been chosen from the least intelligent people of a community; nor can law be enforced if the best people evade jury service. Every citizen who feels that he has been endowed with sufficient intelligence to judge the facts of a case fairly, should feel it his

¹ In New Jersey the chancellor (highest judge) appoints for each county a jury commissioner of the party opposed to that of the county sheriff. These two are commissioners of juries and they select names of eligible persons as in other States, but instead of being put into the jury box the names are numbered consecutively from one up, and a piece of metal with a corresponding number is dropped into the box in place of the name.

duty to organized society to answer willingly the call for jury service.

Arguments for and against the Jury System. — *Affirmative.* — The jury is the fundamental, democratic institution to uphold liberty. It is the great check which the people have upon Congress and the Federal government. It is protection against an arbitrary judge, against government by injunction, against an unscrupulous prosecutor. The jury represents the average sense of justice of a community, and the composite prejudice of twelve jurors is no worse than the prejudice of one judge. Juries help to check the power of wealth. Jurors are freer from political influence than are judges.

Negative. — (1) Selecting a jury is a slow process and causes the judge to get behind with his docket of cases. For instance, in a recent Illinois case it took more than forty days to select twelve men from 887 who were summoned. The cost of selecting this jury was \$35,000.

(2) Friends of a guilty party are often selected for a jury: (a) because so many impartial persons avoid jury service, (b) because the defense can challenge a large specified number of jurors without assigning any cause, whereas the prosecution is allowed to challenge only about half as many, (c) because those officers who select the names to be summoned can sometimes manipulate the list, and (d) agents of the defense sometimes take a census of those favorable or unfavorable to the accused, as where agents pretending to enlarge pictures visited all the homes of a county showing a picture of the accused which resulted in expressions of opinion. When the case was called, all those known to be unfavorable to the accused were rejected by the defense.

(3) Jurors are not usually the most intelligent people of the community: (a) because most professional people are exempt from service, and (b) because persons of affairs can usually be excused because of pressing business.

(4) A baker or a banker cannot be expected to transact matters foreign to his daily habits without mistakes — espe-

cially when clever specialists exert their best ability to mislead him.

(5) In this technical age civil suits so commonly involve difficult distinctions, as, for example, whether one complex machine encroaches upon the patent rights of another machine.

(6) In selecting a jury a conscientious person admits having formed an opinion regarding the case and is excluded ; but a dishonest person answers the questions in compliance with legal requirements.

(7) We assume that some of the jurors cannot be trusted in any important case because we keep them in confinement during the course of a trial — sometimes even when the accused is enjoying his freedom under bail.

(8) Because of the recognized inexperience of jurors we restrict the kinds of evidence which may be admitted. For example, we cannot trust the jurors to hear hearsay evidence or to be told of previous crimes committed by the accused.

(9) Jurors are subject to a sentimental appeal. They see the weeping widow and little children of the accused who are brought into court to produce sympathy, but forget about the widow and children of the victim.

(10) Jurors are more subject to prejudice than a judge : (a) because his whole legal training has shown him the importance of government and the necessity of law enforcement for its preservation, and (b) because, in a capital case, if any one of the twelve jurors is prejudiced against a certain law, or a certain race, or a certain sect, he can prevent conviction.

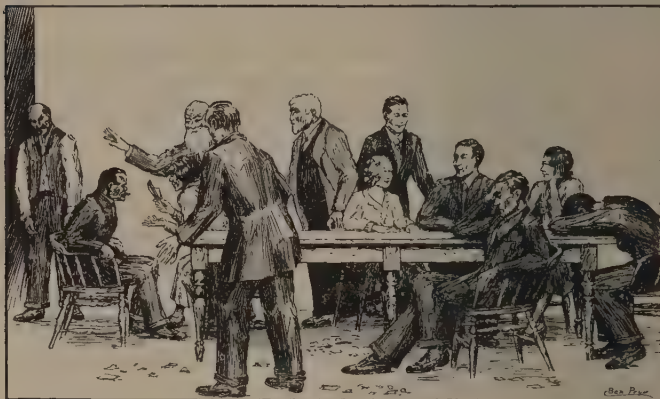
(11) If jurors are not in confinement they are more subject to bribery than one or a few judges : (a) because a judge usually has a reputation to live up to, and (b) because the judge will very likely be impeached and lose a good position if he accepts a bribe.

(12) You can pick one or several judges with more care than you can pick thousands of jurors.

(13) Judges do not have to decide a case during the excitement of a case, but can take the matter under advisement for sober reflection.

(14) Serving on a jury is a disagreeable burden to laymen.

(15) The cost of trials would not be increased if misdemeanors and minor civil cases were always tried by one well-trained judge, and if felonies and important civil cases were tried by several expert judges.



A HUNG JURY.

Drawing by Ben Pryor — a modern version of Orson Lowell's "The Obstinate Juror."

(16) One corrupt juror can nullify the votes of eleven honest ones. Our Supreme Court renders decisions by majority vote, but a jury must be unanimous.

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QUESTIONS ON THE TEXT

1. What are the duties of a court?
2. What two systems of courts are there in each State?
3. What classes of cases are brought into the Federal courts? into the State courts?
4. What three grades of State courts are found in every State?
5. What is a probate court?
6. What special courts do cities commonly have?
7. What is a juvenile court? Explain the need of small claims courts. Describe the different types.
8. How are State judges chosen? For what terms?
9. Do judges have any duties other than interpreting law and deciding cases?
10. What is a grand jury? What is a petit jury? How many jurors commonly compose each? How does a grand jury differ from a petit jury?
11. Does the highest State court have jury trials?
12. Who serve on juries and how are they chosen?
13. What is meant by a *true bill of indictment*? *presentment*? *foreman*?
14. Give arguments for and against our jury system.

A
QUESTIONS FOR DISCUSSION

1. Name the courts in the State in which you live, beginning with the lowest. Tell how the judges for each are chosen. (For this information consult your State constitution or your State Manual if there is one.)
2. Name one or more judges and tell what court each presides over.
3. Is it more important that a legislator, governor, or a judge be chosen for a long term?
4. Why are citizens never justified in resorting to lynch law?
5. "The Constitution of New Hampshire provides that when the governor cannot discharge the duties of his office, the president of the senate shall assume them. During the severe illness of a governor recently the president of the senate hesitated to act in his stead; it was not clear that the situation was grave enough to warrant such a course. Accordingly the attorney-general of the State brought an action against the president of the senate for not doing his duty. The court considered the situation, decided against the president of the senate, and ordered him to become acting governor. Why was this

necessary? Was it conducted in a hostile spirit? Wherein did the decision help the State? Wherein did it help the defendant? Wherein may it possibly prove helpful in the future history of the State?" — "Civil Government in the United States," by John Fiske.

6. Most States elect their judges. Why do most students of government think it better to have them appointed by the governor or by the chief justice of the highest court in the State, or elected by the licensed lawyers in the territory in which they serve?

7. Chancellor Herbert Hadley said: "The most important change that we suggest in our criminal procedure is that to the trial judge be given the powers that he had at common law. Under our present system he is made a mere moderator at the trial, with power only to preserve order in the court room, to rule in a formal way on objections to testimony, and to instruct the jury as to the law. At Common Law the judge was the directing and controlling influence at the trial. He still occupies that position in England and Canada and in our Federal courts. He has the right to examine a witness if he thinks such an examination is necessary to elicit the truth. He has the right to advise the jury upon the facts, to express an opinion thereon as to the credibility of witnesses, and to advise them, as he has under our system, as to the law." Should your state adopt this Federal practice?

8. Judge Marcus A. Kavanagh said: "Under the system which prevails in most of our state courts, the conduct of a criminal trial is transferred by force of statute from the hands of an experienced, impartial magistrate to the eager partisanship of the hired lawyers. It transforms the sworn judge into a mere ringside referee who must regard himself as without care whether the wrong or the right party wins, so long as the champions fight according to the rules of the roped arena." Would you favor strengthening the legal position of the judge?

9. Jury service is so burdensome to business men of cities that some young men refuse to register for voting in order that their names may not be so easily obtained for jury service. Would you favor abolishing juries for civil cases and the less important criminal cases?

10. In Idaho a prisoner charged with threatening a man with a revolver was tried and found guilty by a jury composed wholly of women. Should men be tried by men, women by women?

11. Do you suppose the establishment of a small claims court in your community would help to increase respect for law and government? Do you suppose the newsboy who won a 47-cent suit for a newspaper account became a more patriotic citizen because of the Small Claims Court?

12. The crowded calendars of our courts and the delays and expense of law suits have encouraged the settlement of business disputes by arbitration. Courts are necessary in all criminal and domestic-relations cases because the general public is concerned, and in title-to-real-estate cases because the law is difficult. But simple cases and those where the facts turn upon expert knowledge can be decided by specialists in a particular trade more quickly, and probably with more justice, than by a judge and jury.

For a hundred years the New York Chamber of Commerce has continuously provided for arbitration, and arbitration boards in the motion picture industry annually settle thousands of disputes involving millions of dollars. The American Arbitration Association, with headquarters in New York City, arbitrated 184 disputes in one year at an average cost of one half of one per cent of the amount involved. This Association has a panel of about 500 experts in their respective fields who agree to act as arbitrators if called upon when matters are submitted to the Tribunal of the Association.

Trade or commercial organizations often incorporate in a contract provisions for arbitration in case any dispute or claim arises. The contract may (1) specify the number of arbitrators and the method of selecting them; (2) merely refer to the State statute; or (3) provide for following the Rules of the American Arbitration Association. Under these rules attorneys may appear as counsel, but in some trade organizations attorneys are barred from the proceedings.

According to statutes passed by New York, Massachusetts, New Jersey, Pennsylvania, Oregon, California, and Louisiana, an agreement to arbitrate civil disputes, except divorces and titles to real estate, is enforceable just like any other contract. If either party refuses to arbitrate, the courts will compel him to do so. Arbitrators may require the attendance of witnesses and demand that documents be submitted. The award of the arbitrators may be recorded in the same way as a court judgment, and can be collected by the officers of the court. The courts may set aside the award of the arbitrators if partiality, corruption, misconduct, or mistake is evident.

Would you favor a law giving legal approval to arbitrated cases in your State? What disputes growing out of the industries of your community would lend themselves to arbitration? (See *Commercial Arbitration* by D. Bloomfield, The H. W. Wilson Company, 1927.)

CHAPTER XXII

CIVIL AND CRIMINAL PROCEDURE

Civil Procedure. — A civil suit is one between two persons¹ as distinguished from a criminal case, in which the State is the plaintiff against a person charged with a public offense. There are two kinds of civil procedure — *law* suits and *equity*² suits.

For instance, if one owes you a debt, does injury to your person or property, or violates a contract you can sue him at law for money damages; but if you want to restrain persons from committing wrongs, you must get an injunction (an equity writ), which will direct the individuals to refrain from doing the wrong, or if you desire the specific performance of a contract instead of money damages, or if a person who has property in trust for you refuses to pay you the income, you can sue him in equity.

In cases *at law* the judge usually has a jury to decide the facts, and the witnesses usually testify in court; but in *equity* cases the judge usually decides the facts himself without a jury, and

¹ One or both persons may be artificial, *i.e.*, a corporation, such as the Pennsylvania Railroad Company or the U. S. Steel Corporation.

² *Equity* is a branch of law which developed alongside of common law. Most of the early English law was developed by courts instead of by parliament. The judges of the courts in time became conservative and ceased to create means of obtaining justice as new conditions demanded. They had certain forms, called "court writs," upon which one had to state his case. If he could not state it on one of these forms, he could not bring suit in court. Aggrieved persons appealed directly to the king for justice. The appeals became so numerous that the king created a new court, called Chancery Court, to administer justice by deciding in a conscientious and equitable manner cases in which justice could not be obtained at common law. Hence grew up a branch of law known as *equity*, with a distinct set of principles and writs.

The American States retained these two branches of law, but in all States except New Jersey the same judges hear cases both at law and in equity.

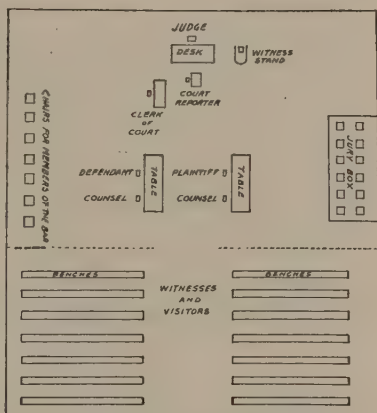
instead of having the witnesses in court he often appoints a "referee" to hear the evidence and report it to him in writing. The two kinds of suits are illustrated as they would proceed in Virginia, for they would proceed in a similar manner in other States.

Suit at Law. — Suppose Mr. A., a passenger, has received bodily injury from a railroad wreck in Albemarle County, say on the Southern Railroad, and brings suit for \$5000 damages. Here Mr. A. is the *plaintiff* and the Southern Railroad Company the *defendant*. Mr. A. will have his lawyer file his claim against the Southern Railroad Company with the clerk of the court in Albemarle County. The railroad company will deny A.'s right to \$5000 damages, by a plea, and will have its lawyer represent it in court.

When the judge holds court in Albemarle County a jury will be impaneled unless the lawyers, known as the counsel for the plaintiff and defendant, are willing to dispense with a jury. The judge also must agree to decide the facts of the case, as well as the law, else the jury cannot be dispensed with.

If a jury is impaneled it will decide all disputed facts, as, for example, whether Mr. A. was in fact injured, to what extent injured, and hence how much damages he should receive; whereas the judge will decide all points of law and instruct the jury as to the law.

After the judge instructs the jury as to the law, the counsel for each side argue the facts of the case and the jury retires to



PLAN OF A COURT ROOM.

the jury room. After deliberation, if the jury can agree upon the amount of damage done Mr. A., it renders a decision, called a *verdict*. If the jurors cannot agree, it is a mistrial and the case may be tried again. The judge finally gives *judgment* in accordance with the verdict of the jury. In this case if the judgment is in favor of the plaintiff, the defendant may appeal the case to the Supreme Court of Appeals, because damages exceeding \$300 are involved. Or suppose it accepts the decision but fails to make prompt payment of the damages awarded; then the clerk will issue an execution to the sheriff or a constable directing him to levy execution and sell the personal property of the defendant. If there is no personal property the court may authorize the sale of real estate.

Suit in Equity. — Suppose X., a farmer, has a fresh stream of water running through his farm and by his house, which he uses to water his stock and which his wife uses for washing clothes. Y. establishes a large creamery on this stream above the farm of X. The creamery empties greasy water and acids into the stream to such an extent that it produces a stench at the farmer's home, his cattle refuse to drink the water, and the water can no longer be used for washing clothes.

X. will have his attorney file suit with the clerk of the court to enjoin (forbid) Y. from emptying the grease and acids into the water, and the clerk will have the sheriff notify Y. that suit has been brought. A jury is not needed to decide the facts, and witnesses need not appear in court.¹ A master in chancery, notary public, or justice of the peace gets the counsel for each side together at some convenient time and place to take *depositions* (question and cross-question the witnesses), which a stenographer takes word for word. These depositions are given to the judge, and the counsel for the plaintiff and for the defendant argue the points of law and evidence before the judge in court or in vacation.

¹ In some States the evidence would be taken in open court, the lawyers and judge asking questions of the witnesses.

If the judge is not satisfied as to the facts perhaps he will go to the scene, call witnesses before him, or order the master in chancery to make further investigation as to certain facts. With the facts and the law both presented, the judge is prepared to render a decision, called a *decree* in equity cases. If the judge decides that the injury to X. is as claimed, he will decree that Y. must cease emptying grease and acids into the stream.

The court costs of a civil suit such as witness fees, jury fees, and recording fees are usually placed by the court upon the party losing the case, and sometimes some costs are granted with which to pay lawyers, but each party usually pays his own lawyers.

Crimes. — A crime is an act or omission which is prohibited by law as injurious to the public and is punished by the State in a proceeding in its own name or in the name of the people thereof. Crimes may be immoral in themselves, such as murder or burglary, or they may be acts considered as crimes only because they have been prohibited by law, such as exceeding the speed limit in an automobile or failing to remove snow from the sidewalk. Crimes are of two degrees — felonies and misdemeanors.

Felonies are crimes of a more serious character than misdemeanors. They vary so much from State to State that no general definition of them can be given, but in many States all crimes which are punishable by confinement in a State penitentiary or by death are defined as felonies. The following crimes are almost universally classed as felonies.

(1) *Murder in the First Degree* generally means the unlawful, intentional, and premeditated killing of a human being, or such a killing resulting from the commission or the attempt to commit one of the graver crimes such as arson, burglary, or robbery. Such crimes are punished in about a fourth of the States by death, in about half by death or life imprisonment, and in the remaining States by long terms in the penitentiary — usually for life.

(2) *Murder in the Second Degree* generally means the unlawful, intentional killing without premeditation, or such killing as a

result of an attempt to commit some lesser crime. It is punished by imprisonment varying from a minimum of one year in Delaware, Ohio, and Vermont to a maximum of life in many States, and even death in several.

(3) *Manslaughter* is the unlawful killing of another without malice. The killing may be voluntary, upon a sudden heat of passion; or it may be involuntary, in the commission of some unlawful act or a lawful act without due caution. Many States divide manslaughter into two degrees. It is punished by imprisonment for a term ordinarily shorter than that for murder in the second degree. Great discretion is given to the jury or judge.

(4) *Arson* is the act of unlawfully and maliciously burning a building. It is more serious if done at night and most serious if an inhabited dwelling is burnt at night.

(5) *Burglary* is the breaking and entering of a dwelling house during the night, with the intent to commit a felony therein, whether the felony be actually committed or not. In some States so entering other buildings is burglary. The same offense is called housebreaking if committed during the day.

(6) *Robbery* is the theft of property from the person or in the immediate presence of the victim, accompanied by force or fear.

(7) *Larceny* is simply theft, and *grand larceny* is the theft of property above a fixed value, generally from \$25 to \$50. In a number of States to steal any amount from the person of another without force or fear is considered grand larceny.

Arson, burglary, robbery, grand larceny, assault with intent to kill, bigamy, perjury, forgery, and embezzlement are commonly punished by a considerable term of imprisonment. Burglary may be punished by death in one State, robbery by death in two States, and arson by death in six States.

Misdemeanors are crimes of a less serious character than felonies and, like felonies, cannot be defined by any general definition which will apply to all States. For instance, in Virginia offenses which are punishable with death or confinement in the penitentiary are felonies; all other offenses are misdemeanors.

In the same State the following crimes are misdemeanors and, in general, would be so classed in other States: violation of town or city ordinances, carrying concealed weapons, cruelty to animals, attempting to defraud a hotel-keeper, petit larceny, which is a theft less than a grand larceny, nonsupport of wife and minor children, permitting a gambling house on one's premises, libel, assault and battery. These misdemeanors are punishable by confinement in jail or by fine. But such misdemeanors as drunkenness without disorder, profanity, or unnecessary labor on Sunday are punishable by fine only. In such cases if the person who has been fined cannot or will not pay his fine, he may be sent to jail according to the law of many States.

Criminal Procedure. — *Arrest of Felons.* — A private individual may arrest a person to prevent the commission of a felony in his presence, or may, without a warrant, arrest a felon whom he has seen commit a felony, or may even arrest one without a warrant on reasonable suspicion of his having committed a felony, provided a felony has been committed.

An officer of the peace (sheriff, constable, police) may do anything a private person may do. He should furthermore pursue a felon who is making his escape though he has not actually seen the crime committed. If the police, constable, or sheriff does not attempt to arrest a felon, the prosecuting attorney will usually take the initiative and have the suspected felon arrested.

The injured party or anyone knowing of the crime may go to a justice of the peace or some other magistrate who has power to issue a warrant and, by taking oath as to the crime, have a warrant issued for the arrest of some designated person, provided the magistrate is satisfied as to the truth of the complaint. The *warrant* is a written document describing the felon, setting forth the offense, and directing that he be brought before some specified magistrate, usually the one who has issued the warrant. A policeman, constable, sheriff, or any other peace officer may make the arrest ("serve the warrant") and bring the felon before the proper magistrate for trial. In making the

arrest the officer may call upon any persons to assist him, may break into a building, or may kill the felon *if necessary*. By "necessary" is meant self-defense or preventing the escape of one who has committed a felony.

Arrest of Misdemeanants. — A private person may arrest another without a warrant to quell a breach of the peace in his presence, but he may not arrest one to prevent any other misdemeanor; nor may he arrest one for any misdemeanor already committed. A peace officer may arrest without a warrant for a breach of the peace or any other misdemeanor committed in his presence. If the misdemeanor was not committed in his presence he can arrest only on a warrant. The same magistrates who issue warrants for felons may issue them for misdemeanants, and arrests are made by the same officers in the same manner except that an officer is never justified in killing a misdemeanor fugitive, though of course he has the right of self-defense.

The Commitment. — After the accused is arrested he is brought before the magistrate, usually the justice of the peace, except in cities where there is a special police justice, or in towns in which the mayor has the powers of a justice. If the crime is a misdemeanor the accused is probably tried at once. If the crime is a felony the magistrate gives the accused a preliminary hearing; and when the evidence indicates a probability of guilt, the accused is held for the grand jury, or brought to trial by a *presentment*. If the crime is murder the accused is usually committed to jail, but otherwise, unless his being at large is considered especially dangerous, he is released until the grand jury meets, provided he can give bail.¹

¹ Furnishing bail (Old French *bail* = a guardian) is theoretically putting a man in charge of a private jailer and in effect is the guarantee that an accused person will appear for trial if allowed to go at large. It is usually a sum of money, depending upon the character of the charge, and is determined by a judge or special bail officer. The cash, or other security, may be furnished by a friend or by the accused himself if he possesses the amount required.

Professional criminals often secure bail through one who makes a business of going bail for a fee. And too often the criminal commits another crime while out on bail to secure money with which to pay his bail fee.

The Indictment. — The *prosecuting attorney*, called state's attorney or district attorney in some States, investigates the evidence against such persons as the committing magistrates have held for the grand jury, or against any other persons whose probable guilt has been brought to his attention. If he thinks there is evidence against any such person which will probably convict, he draws up a *bill of indictment*, a written document stating the charge, and has witnesses summoned for the grand jury.

If a certain majority of the grand jury, which majority varies from State to State, thinks there is sufficient evidence to warrant a court trial, the foreman writes across the face of the indictment the words, "a true bill" (of indictment), and the indicted person must stand trial in court. If the prescribed majority does not think that the evidence justifies a trial the words "not a true bill" are used, and the accused is discharged, if he has already been committed.

The Trial. — The justice's court usually has original jurisdiction in misdemeanor cases, and here the trial is very informal because justices of the peace are not always lawyers and must depend upon what untrained minds can glean from a volume of laws compiled for their use. With few exceptions an appeal may be taken to the county or superior court in criminal cases.

In felony cases sent to the county or superior trial court by the grand jury the prisoner appears in the custody of the sheriff, deputy-sheriff, or some like officer who perhaps bears a different title. In misdemeanor cases sent from the grand jury or appealed from a justice of the peace the prisoner need not appear in person. He often prefers to leave his case to an attorney. But a felony case cannot proceed unless the accused is present.

The prisoner is charged with committing a crime against the State¹ and is prosecuted by the prosecuting (state's) attorney of

¹ For a great many acts a person may be proceeded against criminally by the State because he has disturbed the peace of the community generally, and also in a civil action by a person because the latter has been injured

the county. The clerk of the court reads the indictment or presentment to the prisoner, who pleads "guilty" or "not guilty." If he pleads guilty, and is of a sound mind, the judge usually pronounces the sentence according to the State law, and the case ends. But if he pleads not guilty he is entitled to a trial by jury if he desires it, and in some States one accused of a felony is obliged to stand trial by jury. If the prisoner cannot afford an



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JUSTICE AND MERCY.

attorney the judge appoints a lawyer, commonly a young inexperienced one, to defend him. In most States this attorney is paid a small fee by the State.

There are usually about twice as many persons summoned as are needed for the jury, but when the court meets, the counsel may challenge a certain number, which is limited by law, without giving any cause, and the judge will excuse such veniremen. Then the counsel may challenge any other veniremen for cause, such as relationship to the parties to the suit or some other rea-

individually. If a man libels you by an unlawful malicious publication and thereby injures your good name, you can sue him for money damages; if his libeling you causes a breach of the peace, he has also committed a crime and may be punished by the officers of the State in the name of the State, because the entire State is injured by lawless people who break the peace.

son why they might not give an impartial decision; if it is a murder trial, because they do not believe in capital punishment.¹

If others are challenged, the judge, in some States, may have the sheriff summon bystanders (*talesmen*), whereas in other States a new list must be prepared as the former one was and this procedure must continue until the prescribed number of suitable men are *impaneled*, that is, secured to serve.²

After the case is opened the witnesses for the State and for the prisoner are examined and cross-examined, arguments are delivered by the attorneys for each side, and the judge gives the *instructions* to the jury explaining the law governing the case. (In Virginia the instructions precede the arguments.)

The jury then retires to consider the evidence of the case and arrive at a decision. If the jury cannot agree, the foreman reports "no agreement"; if the requisite number agree, usually all in an important criminal case, he reports "guilty" or "not guilty." If guilty, the jury usually determines the punishment in its verdict,³ which is read by the clerk of the court, and the judge pronounces the sentence. If the penalty is merely a fine, this is paid to the clerk; if more than a fine, the sheriff takes charge of the prisoner, who is taken to jail to serve his term, or until he can be transferred to the penitentiary, executed, or disposed of according to the sentence. If there has been a

¹ In some States unsatisfactory laws or inefficient judges often permit the lawyers to ask every conceivable question in order to determine whether the jurors hold any opinions which would cause them to be prejudiced in the case. For example, after the Iroquois Theatre fire in Chicago, in which so many people lost their lives, the Theatre Company was being sued, and the counsel for the company asked the prospective jurors such questions as these: "What paper do you read? Do you believe in card playing? Dancing? Theatre going? Have you any prejudices against city people? Have you ever had a friend killed in a fire?"

² In the famous Gillooley murder case (1878) in Indiana, 4150 veniremen were summoned and nine and a half weeks were required to complete the jury. More recently 91 days were required to select a jury in a certain California case.

³ In many States the judge determines the punishment after the jury has determined the guilt.

disagreement ("a hung jury"), the case is either set for a new trial or dismissed.

If the verdict has been "guilty," the prisoner may petition for an appeal to a higher court on the ground that the verdict is not according to the law, or to the evidence, or that some error has been committed in the trial. If the appeal is granted and is sustained the higher court will order the lower court to hold a new trial; but if no error is found the appeal is dismissed and the order of the lower court stands.

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QUESTIONS ON THE TEXT

1. What is the difference between a civil suit and a criminal suit?
2. If you sue for a sum of money do you sue *at law* or *in equity*?
3. If you want to prevent the commission of a wrong which cannot be remedied after once committed, would you bring suit *at law* or *in equity*?
4. Explain just how a suit *at law* proceeds. What do you mean by *plaintiff*? *defendant*? *verdict*? *judgment*?
5. Explain just how a suit *in equity* proceeds. What is a *master in chancery*? *decree*? *What are depositions*?
6. What is a crime? Are all crimes wrong in themselves? If not, why are they considered crimes?
7. Crimes are of what two degrees? What distinguishes them in many States?
8. What is Murder in the First Degree? Murder in the Second Degree? Manslaughter? Arson? Burglary? Robbery? Larceny? Grand Larceny?
9. Who may arrest felons?
10. What is a *warrant*? Is it necessary to have a warrant to arrest a felon? Who serves a warrant? May he call upon bystanders to assist him?
11. May a peace officer without a warrant arrest one who has committed a misdemeanor?
12. Who usually tries a criminal and commits him to jail when he is first arrested?

13. What do you mean by *giving bail*?
14. Who draws up bills of indictment to present to the grand jury?
15. Describe a jury trial.
16. What do you mean by *instructions*?
17. By whom is the law governing a case decided? the facts?
18. What is meant by a "hung jury"?
19. Describe a court in session.

QUESTIONS FOR DISCUSSION

1. In New York City a thief stole a plume worth \$57, but proved that it was marked down to \$49.50 the day he stole it; hence his offense was merely a misdemeanor, whereas it would have been a felony if he had stolen goods valued for as much as \$50. What crime did this thief commit?

2. In the eighteenth century nearly 200 crimes were punishable by death in England. A death penalty was prescribed for stealing a handkerchief. The people and even the judges ceased believing in the justice of such laws and did not enforce them. For instance, in one case a man was accused of stealing a sheep. The judge threw the case out of court because it was a ewe that he had stolen, so that he might not have to pronounce a death sentence. Have any of these technicalities of the law come down to us to-day when we do not need them? Why do we not need them to-day?

3. Are crimes prevented more by the severity of punishment or by the certainty of punishment? Would you consider it extravagant for the government to spend \$100,000 in order to detect and bring a murderer to justice?

4. In Oregon a boy charged with violating the cigarette ordinance was sentenced by the judge to wheel eight tiers of wood from the street into the City Hall. Do you consider that the judge showed wisdom in his sentence?

5. You cannot compel a person accused of a crime to testify against himself according to law. You cannot so much as ask him where he was when the crime was committed. What do you think of this old legal rule? Would you favor compelling the accused to make a statement as to his whereabouts to the justice of the peace before whom he is brought — else assume that he is guilty?

6. In some States persons convicted of murder are put to death by the gallows, in others by the electric chair, in Nevada by lethal gas, and in some there is no capital punishment. Which sentence do you think is most likely to reduce crime?

7. The National Crime Commission appointed a Sub-Committee on Criminal Procedure and Judicial Administration, with Hon. Herbert S. Hadley, Chairman. The following summary from their report made in 1926 contains recommendations of our leading jurists for uniform State legislation:

Bring persons charged with a felony before a magistrate when arrested, for an opportunity to make a public statement and to answer questions.

Permit prosecution either by indictment or by information.

If bail is granted, the bondsman must submit a full statement of what, if any, collateral he has received from the defendant. If the defendant fails to appear, after ten days the forfeited bond becomes a final judgment.

The fact that the juror has heard of the case and has formed an opinion should not disqualify him if he is satisfactory to the judge.

The State should have as many challenges as the defendant.

If the accused fails to testify as a witness, his failure may be commented upon by the judge or by the counsel.

The defendant or the State should be permitted to take depositions within or outside the State under conditions fixed by the court (judge); also to take depositions of a witness likely to leave the court's jurisdiction.

The judge should instruct the jury as to the law and should make comments on the evidence and character of any witness.

A five-sixths verdict should be sufficient to convict except where the penalty is death.

The jury should determine guilt and the judge fix the punishment as authorized by law.

On appeal a judgment of conviction should not be reversed unless an error complained of has resulted in a miscarriage of justice.

A pardon or parole should not be granted until notice has been given to the prosecuting officer and judge who tried the accused, and the reasons should be made public five days before taking effect.

A defendant asking for an appeal should remain in jail at least until the appeal is granted.

An insanity plea should be required ten days before the trial begins except with the consent of the judge.

When the plea for the defendant is insanity, the judge should summon an expert and the county should pay him.

The prosecuting attorney should not be allowed to drop a case against an indicted person without the consent of the judge.

Learn from some lawyer which of these recommendations are already the law of your State. Do you favor adopting the remaining ones?

8. Judge Shaughnessy of Milwaukee tries all felonies in a county of about 600,000 population — approximately 150 cases a month. He is efficient and gives prompt *justice*. One morning a man murdered his wife, and in less than eight hours he was serving his life sentence in the penitentiary.

The accused are brought to trial by "information" instead of the slow grand jury process; there is no easy bail, so there are no professional bondsmen there; a juror is not disqualified merely because he has formed a tentative opinion about the case; with the assent of the accused, trials are without jury; dilatory tactics are not permitted; and the court opens early, and if necessary continues late.

Criminals know about Milwaukee. A visiting burglar was caught there at midnight. By noon the next day he was on his way to the penitentiary to begin an eight-year sentence, and he thus voiced his disgust to an inquiring reporter: "Tell my pals in Chicago," he said, "to stay out of this man's town!" It is not surprising that the murder rate in Milwaukee was found to be less than that of any other city as large or larger.

If under this system of "prompt justice" it should be discovered that an injustice has been done, is there any redress for the one thus imprisoned? What?

9. Do you agree with the following statement of Judge Shaughnessy: "Speedy trials reduce the upkeep of prisoners in tax-supported county jails. And delay ought to be avoided if only because in our day it has become the refuge of the caught criminal: he realizes far too shrewdly that if his case is continued often enough and long enough, witnesses may disappear or die, important papers and exhibits can be 'lost,' public interest will certainly wear out — and there is a strong chance that the verdict will finally be 'Not guilty!'"

CHAPTER XXIII

COUNTY AND TOWNSHIP GOVERNMENT

I. COUNTY SYSTEM

Origin of County Government. — The Southern colonists were agriculturalists living far apart on plantations. A small class of aristocrats owned most of the property and were well educated, but illiterate slaves formed the masses. Under these conditions the people did not develop local self-government as they did in New England, where there was a substantial middle class of townspeople.

Therefore it was necessary to divide the colonies into counties¹ so that the laws might be properly enforced. Thus the county became the most important governmental division of the colony. After the colonies became States the importance of county government continued, and the new States in the Southwest and extreme West copied the Southern county system.²

Number, Size, and Population of Counties. — There are now more than 3000 counties in the United States. They vary in number from 3 in Delaware to 254 in Texas. The smallest county (New York County, New York) has an area of only 22 square miles, but the largest (San Bernardino, California) embraces 22,175 square miles. In population the counties vary from 195 in Love County, Texas, to more than 3,000,000 in Cook County, Illinois.

Functions of Counties. — A county is a governmental division of a State which administers State laws and such county laws

¹ The divisions were called *counties* because the divisions of England were so called.

² In Louisiana the divisions corresponding to counties are named *parishes*.

as the State permits the county to enact. These county functions are determined by the State legislature except in regard to those matters for which provision is made by the State constitution. The county is always subject to the will of the State.

In most States it is the duty of the county to preserve peace; administer justice; distribute the property of a deceased person; register titles to land; maintain schools; build and repair roads and bridges; care for the poor; protect the health of the com-



COLUMBIA RIVER HIGHWAY — ORIGINALLY BUILT BY COUNTIES.

munity; collect local, county, and State taxes, and expend the county portion of these taxes in the performance of the county functions just enumerated.¹

How County Functions Are Performed. — Most county officers are chosen by an election conducted at various voting places throughout the county for short terms — commonly two or four years — but in some States a few officers are chosen by the county board, the State legislature, the governor, the judge, or otherwise appointed. The officers are not exactly the same

¹ In addition to the usual functions that county governments perform for State governments there are optional State laws which may be accepted for a county by its board of commissioners or board of supervisors.



LOS ANGELES COUNTY GENERAL HOSPITAL.

This building has thirty acres of floor space and five acres of flat roofs. It is for those who cannot afford private hospitals.

In the foreground are temporary nurses' homes and the bridge communicating with the Service Building.

in all States, but every county except those in Rhode Island and Georgia has a board which in most States is called the "board of commissioners."

The County Board. — In England the counties were administered by the Quarter Sessions Court of the justices of the peace of the county. Naturally this system was copied in America. In Kentucky, Tennessee, and Arkansas the justices



VISTA HOUSE, CROWN POINT, COLUMBIA RIVER HIGHWAY.

of the peace continue to administer the counties, but since they are elected for definite terms the system is not materially unlike the most recent systems to be described in the next paragraph.

Board of Supervisors. — New York early departed from the system described in the last paragraph by establishing a county board consisting of one supervisor elected from each township, and called "board of supervisors." This system, with certain changes, has been adopted by many States in all parts of the

COUNTY BOARDS

STATES	NUMBER OF MEMBERS	CALLED BOARD OF	HOW CHOSEN	TERM IN YEARS
Maine	3	Commissioners	Elected at large	6
New Hampshire	3	Commissioners	Elected at large	2
Vermont	2	Assistant judges	Elected at large	2
Massachusetts	3	Commissioners	Elected at large	4
Rhode Island . . . .	. . . .	. . . .	. . . .	. . . .
Connecticut	3	Commissioners	By State Legislature	4
New York	T ['] ship	Supervisors	Elected by townships	2
New Jersey	T ['] ship; 3 to 9	Chosen Freeholders	Elected by townships; elected at large	2
Pennsylvania	3	Commissioners	Elected at large	4
Delaware	3, 7, 10	Commissioners	Elected by districts	4
Ohio	3	Commissioners	Elected at large	4
Indiana	3 and 7	Commissioners and Co. Council	Elected by districts	3 and 4
Michigan	T ['] ship	Supervisors	Elected by townships	1
Illinois	T ['] ship; 3	Sup. (in 86 Cos.) ; Com. (in 16 Cos.)	Elected by townships; elected at large	2, 3
Wisconsin	T ['] ship	Supervisors	Elected by townships, villages, and	1 and 4
Minnesota	5 or 7	Commissioners	Elected by districts [wards	4
Iowa	3 to 7	Supervisors	Elected by districts or at large	3
North Dakota	3 or 5	Commissioners	Elected by districts	4
South Dakota	3 to 5	Commissioners	Elected by districts	4
Nebraska	N. U.	Sup. (in some) ; Com. (in some)	Elected by districts	4
Kansas	3	Commissioners	Elected by districts or at large	4
Maryland	N. U.	Commissioners	Elected at large	N. U.
Virginia	Dist.	Supervisors	Elected by "Magisterial Districts"	4
West Virginia	3	"County Court"	Elected at large	6

North Carolina	3 or 5	Commissioners	Elected at large	2
South Carolina	2 or T'ship	Commissioners	Elected and appointed at large in	N. U.
Georgia . . .	1	Ordinary (and commissioners)	Elected at large [most counties	4
Florida . . .	5	Commissioners	Elected at large; nominated at large	2
Kentucky . . .	3 to 8	"Fiscal Court"	Elected by districts [or by districts	4
Tennessee . . .	Dist.	"County Court"	Elected by districts	6
Alabama . . .	Dist.	"Court of County Commissioners"	Elected by districts	4
Mississippi . . .	5	Supervisors	Elected by districts	4
Louisiana . . .	Dist.	Police Jury	Elected by districts	4
Texas . . .	Dist.	Commissioners and County Judge	Elected by districts and at large	2
Arkansas . . .	T'ship	Levying Court and County Judge	2 elected from each township	2 and 4
Missouri . . .	3	Judges of the County Court	2 elected by districts and 1 at large	2
Oklahoma . . .	3	Commissioners	Elected by districts	2
New Mexico . . .	3	Commissioners	Elected by districts	2
Arizona . . .	3	Supervisors	Elected by districts	2
Colorado . . .	3	Commissioners	Elected at large	4
Utah . . .	3	Commissioners	Elected at large	2 and 4
Wyoming . . .	3	Commissioners	Elected at large	2 and 4
Montana . . .	3	Commissioners	Elected at large (must reside in Dist.)	6
Idaho . . .	3	Commissioners	Elected by districts	2
Washington . . .	3	Commissioners	Elected by districts	2 and 4
Oregon . . .	3	2 Commissioners and County	Elected at large	4 and 6
Nevada . . .	3	Commissioners	Elected at large	4
California . . .	3, 5, or 7	Supervisors	Elected by districts	4

Dist. = One (sometimes more) from each district.

T'ship = One from each township, ward, or village.

N. U. = Not uniform.

country, but especially in the Northwest, where the township system found its way.

Board of Commissioners. — Pennsylvania also departed from the system described above, and provided that each county should elect three commissioners at large, that is, from the whole county, to be known as the “board of commissioners.” This system has been adopted by most of the States which have not accepted the New York plan. It must be remembered that all of these plans have been greatly modified by the various States, and in a few States the practices of one system have been adopted with the name of the other.

The county board, under whatever name, has often been called the “county legislature” because in nearly all States it has power to determine the county tax rate and to appropriate the money for county purposes when collected. In some States it has power to enact certain ordinances, such as fish and game laws and the granting of bounties for the destruction of certain wild animals; but its duties are primarily to administer State laws within the county. It has charge of county buildings at the county seat (courthouse and jail) and the poorhouse, hospital, workhouse, and pesthouse, if the county owns such institutions; and it determines the location of all or certain roads and bridges and provides for their maintenance.

In the South and West the county board commonly establishes polling places and provides ballots, and in some States it acts as a county board for declaring the results of elections. In most States the board appoints a superintendent of the poor, but the other officers whom the board appoints in one State or another are very few.

Judicial Officers. — In all parts of the country, even in the New England States, the county is an important unit for judicial purposes. There is a courthouse in every county and a clerk of the court, unless the county clerk acts as clerk of the court, who keeps records of suits brought in the county and of judgments and decrees of the court when the judge has

disposed of the cases; but less than half of the States have a judge for each county. Instead of a county judge it is more common to have a "district" or "circuit" judge, who holds court in several counties according to the needs of the counties in his "district" or "circuit."

The counties of nearly half the States have probate judges, whose duty it is to probate (prove) wills; whereas in the other



RIVERSIDE COUNTY COURT HOUSE, CALIFORNIA.

States the regular county judge, county clerk, clerk of the court, or some other officer probates wills.

Every county, except the five in Rhode Island, has a prosecuting attorney to see that criminals are brought to justice, though in a few States he, like the judge, serves for two or more counties and is called the district attorney. If he serves for one county he is called the county attorney, State's attorney, commonwealth's attorney, or merely prosecuting attorney. In fact, he is sometimes called district attorney though his district consists of only one large county.

The Sheriff. — Every county has a sheriff, and in all States except Rhode Island (where he is chosen by the State legis-

COUNTY OFFICERS AND THEIR TERMS OF OFFICE

STATES	COUNTY JUDGE	PROBATE JUDGE	PROSECUTING ATTORNEY	SHERIFF	CORONER	CLERK OF COURT	COUNTY CLERK	REGISTER OF DEEDS	COUNTY AUDITOR	COUNTY ASSESSOR	COUNTY TREASURER	COUNTY SURVEYOR	SUPT. OF SCHOOLS
Maine	...	4	2	2	5a	4	—	4	...	...	4	...	...
New Hampshire	...	Ua	2	2	...	Ua	Ua	2	1a	...	2	...	...
Vermont	...	Ua	2	2	...	6	—	...	2a	...	2a	...	...
Massachusetts	...	...	...	6	...	3a	...	...	...	...	6	...	...
Rhode Island	...	...	...	3a	...	2a	...	...	2a	...	...	...	...
Connecticut	...	...	2a	4	3a	...	...	...	...	...	...	...	...
New York	6, 14	6	3	2, 3, 4	3	...	3	2, 3, 4	...	...	3	...	...
New Jersey	5a	5	5a	3	3	...	5	5s	...	...	1a	...	...
Pennsylvania	10	10s	4a	4	4	4	—	4	4	...	4	...	3a
Delaware	...	...	4a	2	2	2	—	4	4	...	N. U.	...	1a
Ohio	6	4	2	2	2	2	...	2	4	...	2	...	3al
Indiana	...	4f	...	2	2	4	4	2	4	...	2	...	4a
Michigan	...	4	2	2	2	—	2	2	2	...	2	...	4
Illinois	4	4f	2	2	4	—	4	2	2f	...	4	...	4
Wisconsin	6	4f	2	4	2	—	2	4f	4f	...	4	...	4
Minnesota	...	4	4	4	2	2	2	2	—	...	4	...	4
Iowa	...	...	4	4	4	4	—	4	4	...	4	...	3a
North Dakota	2	...	2	2	2	2	—	2	2	...	2	...	2
South Dakota	2	...	2	2	2	2	—	2	2	...	2	...	2
Nebraska	4	...	4	4	2	4m	4	4s	...	2	4	2a	4
Kansas	...	2	2	2	2	2	2	2	2s	2	2	4	2
Maryland	...	4	4	4	2a	2	2	2	...	...	N. U.	4	6al
Virginia	...	...	4	4	Ua	4	8	—	...	4s	4	4a	4am
West Virginia	...	...	4	4	Ua	6	6	—	...	4	...	4	4

North Carolina	.	....	2f	2f	2	4	4	4	—	2	2f	2f	2f	2m	2	2a
South Carolina	.	....	4	4	4	4	4	4	—	—	—	—	—	4a	...	4
Georgia	.	....	—	—	—	—	—	—	—	—	—	—	—	4m	—	4
Florida	.	4	—	4	4	4	4	4	—	—	—	—	—	—	4	4
Kentucky	.	4	—	4	4	4	4	6	4	4	—	—	—	4a	4	4
Tennessee	.	8	—	—	2	2	4	4	6	—	—	—	—	2	4a	2a
Alabama	.	—	—	—	4	4	4	4	4	—	—	—	—	4	4	4
Mississippi	.	4f	—	4f	4	4	4	4	—	—	—	—	—	4	4	4
Louisiana	.	—	—	—	4	4	—	—	—	—	—	—	—	2a	4a	4a
Texas	.	2	—	2	2	2	—	—	—	—	—	—	—	2	2	4
Arkansas	.	2	—	—	2	2	—	—	—	—	—	—	—	2	2	2s
Missouri	.	—	—	—	4	4	4	4	2m	—	—	—	—	4	4	4
Oklahoma	.	2	—	2	2	2	4	4	4	4	—	—	—	2	2	2
New Mexico	.	—	—	—	—	—	2	2	2	—	—	—	—	2	2	2
Arizona	.	4	—	—	—	—	—	—	—	—	—	—	—	2	2	2
Colorado	.	4	—	—	2	2	—	4	—	2	—	—	—	2	2	2
Utah	.	—	—	—	—	—	—	2s	—	4	—	—	—	4	4	2s
Wyoming	.	—	—	—	2	2	—	—	—	—	—	—	—	2	2	2
Montana	.	—	—	—	2	2	—	2s	—	—	—	—	—	2	2	2
Idaho	.	—	—	—	2	2	4	4	2	—	—	—	—	2	2	2
Washington	.	—	—	—	—	—	—	4	—	—	—	—	—	4	4	4
Oregon	.	6	—	—	4	4	4	—	4	4f	—	—	—	4	4s	4
Nevada	.	—	—	—	4	4	4	—	4	4	—	—	—	4	4	4
California	.	6	—	—	4	4	4	—	4	—	—	—	—	4	4	4m

Numeral alone = Term for which officer is elected.

Numeral followed by *a* = Officer appointed or chosen by some indirect method.

Numeral followed by *al* = Officer appointed for term indicated or less.

Numeral followed by *am* = Officer appointed, and most counties have such officer while others are grouped into larger districts.

Numeral followed by *f* = Term for which officer is elected in the few counties having such officer.

Numeral followed by *m* = Term for which officer is elected in most counties; that is, in all counties having such officer.

Numeral followed by *s* = Term for which officer is elected in some counties; that is, in all counties having such officer.

Ua = Officer appointed for an unlimited or indefinite term.

N. U. = Not uniform in the various counties as to term.

— = Duties performed by some other county officer.

.... = Duties performed by an officer of a district larger (e.g., judicial district) or smaller (e.g., township) than a county, if performed at all. A populous county may constitute a district.

lature) he is elected by the people.¹ His duty is to prevent any breach of the peace; arrest offenders and place them in the jail, of which he or a deputy appointed by him is keeper; attend court and carry out its orders, whether it be to notify witnesses or jurors, attend the jury, recover property, collect money, or hang a criminal. He is "the right arm of the judge."

In the performance of these duties he may employ deputies regularly or only in case of emergency; he may summon to his aid the *posse comitatus* (power of the county), which consists of the able-bodied male citizens of the county, in case of a riot; and in case of a serious disturbance he may call out the State militia. Since the telephone has enabled a sheriff to communicate with a governor promptly, it is usually the governor who now calls out the militia, — the national guards. Special duties are imposed on sheriffs in the different States; for instance, in some Southern and Western States they act as tax collectors.

The Coroner. — In nearly all States the coroner² is an officer of the county who holds inquests upon the bodies of persons who are believed to have died from violent or other unlawful means. He empanels a jury, usually of six bystanders, who inquire from witnesses, or even physicians, chemists, and detectives as to the probable cause of a death which is known to have resulted or is supposed to have resulted from an illegal act.

If the jury decides that the deceased person has probably met death unlawfully at the hands of a certain person, the coroner may issue a warrant for the arrest of the accused and commit him to jail to await trial, or he may report the facts to

¹ The word "sheriff" comes from *shire-reeve*, which means "peace officer of the shire," shire being the Anglo-Saxon name for a division of England which became known as county (district of a count) after the Norman Conquest of 1066.

² "Coroner" is the modern spelling of the older form *crowner*, who in the time of King Alfred was appointed by the king and was especially the crown officer in the shire (county).

a committing magistrate or the prosecuting attorney as the State law may provide. In Massachusetts instead of a coroner there is a medical examiner in each county to pass upon unusual deaths. As a knowledge of medicine and pathology is desirable the change made by Massachusetts is a very wise and progressive one.

The County Clerk. — In half of the States there is a county clerk. He acts as clerk of the court in some States; prepares election ballots and receives election returns, and issues marriage licenses in others; and audits the county accounts, acts as clerk of the county board, and records documents such as deeds, wills, and mortgages in others. In short, he is assigned various functions of a clerical nature for which there is no specialized officer in the county.

The Register of Deeds. — In the more populous States it has been thought expedient to have a special officer to keep the records of such legal documents as deeds and mortgages. It is the duty of the register of deeds to make exact copies of instruments to be recorded and enter them in indexed books where they may easily be found. As one's title to property often depends upon these records it is very important that no mistakes be made.

The County Auditor. — Nearly half of the States have a county auditor, whose business it is to go over the accounts of the other officers of the county, prepare statements of county finances, and issue warrants on the treasurer for the expenditure of county money according to the appropriations made by the county board. Until recently the duties of this office were performed in a very loose manner, but the States are gradually enacting laws for State supervision of local finances. For example, some States require uniform accounting, which can easily be examined by a State accountant or even by an educated citizen of the county.

The County Treasurer. — In every State except Rhode Island, where township officers have charge of local funds, and

in several Southern States, where banks perform the duties of county treasurers, there is a county officer to receive and safeguard the county taxes. In a few States there are tax collectors in addition to the treasurer, and in several Southern and Western States collections are made by the sheriff. The treasurer is always placed under bond to insure the State and county against loss from dishonesty or carelessness. He is usually paid a definite salary, but some are paid wholly by commissions on the money handled by them.

The Superintendent of Schools. — In nearly every county outside of New England (where public education is administered by the township) there is a county superintendent of schools. In most States he is elected by the people, but in some he is chosen by the county school board, the State school board, appointed by the governor, or otherwise selected. In most States his duty is to conduct teachers' examinations, visit schools to observe and advise teachers, assist district trustees in the selection of teachers and with other advice, and collect school statistics; and in many States he acts as assistant to the State commissioner of education in a general campaign against illiteracy and indifference to education.

Minor County Officers. — Most counties have a surveyor who surveys land for private owners at their own expense, or upon the direction of the court when a dispute in court over a land boundary necessitates it. In some of the more progressive States there is a county engineer instead of a county surveyor, who performs those duties formerly done by the county surveyor; but in addition to this he acts as engineer in the construction of roads, bridges, drains, and like improvements.

Southern and Western counties have assessors to determine the value of property to be taxed, but in New England and the Central States this function is usually performed by a township officer. Other usual county officers are a health officer or board and a superintendent or overseer of the poor who has charge of the almshouse, poor farm, or hospital of the county.

County-City Duplication.—With county and city governments operating over the same area there is a duplication of functions resulting in unnecessary governmental expenditures and some conflict in authority. To remedy this duplication, where the city covers a large part of the county the boundaries of the city should be made to coincide with the county. For example, the city of San Francisco and the county of San Francisco now cover the same area, and the board of supervisors is the city council.¹

With the county and city thus merged it is possible to get rid of one set of officers, to build uniformly good roads throughout the county, to police the whole county, to zone the whole county, and to establish a system of parks.

In a large county the rural population is usually unwilling to be taxed and governed by the urban population, and it will oppose a union when the matter comes up in the legislature. So instead of extending the city bounds a number of cities have become independent counties. For example, Denver was made independent of the original county and now constitutes a county in itself.² It retained only two of the former 17 elective county officers, the city officers performing the other county functions. For instance, the duties formerly performed by the sheriff are now cared for by the police department.

Separating a city from the rest of the county is not so satisfactory as extending the city bounds to coincide with the county bounds. As the city population spreads you soon have a surrounding county thickly settled, usually inefficiently governed, and often corruptly governed. It may plague the city by permitting badly policed road houses just beyond the city bounds as well as other nuisances against which the city is zoned.

Counties Unimportant in New England.—The county is of little importance in New England except as a district for the

¹ While the county board and city council of San Francisco have merged, unfortunately several of the county and city offices still duplicate.

² St. Louis, Baltimore, Philadelphia, and all of the first class cities of Virginia are other good examples of cities which are independent of the surrounding counties.

administration of justice. No New England State has a county superintendent of schools, county surveyor, or county assessor; and only one has a county clerk. The duties of these officers are performed by township officers.

II. TOWNSHIP SYSTEM

Origin of Town Government in New England. — The Pilgrims came to Plymouth, Massachusetts, as a congregation, and very soon (1622) they erected on Burial Hill a "meeting-house," which was used both for public worship and for town meetings. The church and government were practically one: sermons were preached on the inside to save souls from perdition and a cannon was mounted on the outside to save bodies from the Indians. It was at the meeting-house that the voters met and made their laws directly.

Other congregations from England settled along the coast and established similar governments. As the population of these coast settlements increased, pastors led congregations from them and established towns. The desire to be near the church, the hostility of the savages, the severe climate, and the unsuitableness of the country for large plantations caused the immigrants to settle in compact communities, called "towns."

Terms "Town" and "Township" Distinguished. — These communities were called "towns"¹ because they had been so called in England. When it became necessary to survey boundaries between the various towns the small irregular patches of land which resulted were properly known as "townships,"²

¹ When a clan of our ancestors in northern Europe or England fixed upon some spot for a permanent residence and built a wall around it, the wall was known as a *tun*; in time the space within the wall was known as a *tun*, or *town*. The settlers were called by the clan name, as for example "the Boerings" or "the Cressings"; and the town would be called *Barrington*, "town of the Boerings," or *Cressingham*, "home of the Cressings."

² The word *ship*, as here used, comes from the Anglo-Saxon word *scip*, which means shape, hence township means the shape of the town or the entire bounds of the town.

but frontier communities are not very discriminating in their terms, and the term "town" was used not only for the cluster of buildings but for the entire township.

In New England to-day "town" means a political subdivision of a county which in other parts of the country is called "township." For the sake of uniformity we shall use the word township when referring to what is called "town" in New England. The early townships were very irregular in shape and contained an average of not more than twenty square miles.

Powers of New England Townships. — For many years the New England townships were undisturbed by the king or parliament of England and exercised such powers of government as are now exercised by a State. They waged war against the Indians, established schools, and as late as the Revolutionary War they appropriated money for war supplies; in fact, they created the States which now control them.

To-day they exercise only such powers as the States permit. They have control of most roads, bridges, schools, libraries, poor relief, and taxation for most local purposes. Some townships have charge of such public works and institutions as street pavements, sewers, water-works, electric light plants, public baths, parks, and hospitals. They also have certain powers to enact police ordinances, such as determining traffic speed restrictions.

The township officers act as agents of the State for an increasing number of functions. They assess and collect State taxes, keep records of vital statistics (births and deaths), and enforce the health laws of the State. Except in one State the township is the usual district from which a representative is elected to the more numerous branch of the State legislature.

The Town Meeting. — Township laws have always been made in the town meeting. During the first few years the colonists attempted to hold monthly meetings, but this was found to be a cumbersome way to transact business, and as early as 1635 *selectmen* (officers selected by the people) were

chosen to administer the affairs of the township during the interval between the assemblies. Thus the government became less democratic (direct rule of the people) and more republican (indirect rule of the people through representatives).

To-day the regular meetings are usually held in the town hall once a year, but the selectmen may call special meetings. The first Monday in March is a favorite time to have the meetings,



TOWN HALL, ARLINGTON, MASSACHUSETTS.

but some are held as early as February or as late as April, and Connecticut prefers October. The general nature of the business to be transacted at a meeting must be announced in a warrant which is posted in the various parts of the township.

The town clerk calls the meeting to order, usually at nine o'clock, and acts as secretary of the meeting. The first business is the election of the presiding officer, called the *moderator*. In many townships some well-respected citizen is elected year after year as a matter of course. The organization being perfected,

the principal township officers are nominated from the floor, but the nominations have frequently been arranged by preliminary party meetings, called *caucuses*. Election is by ballot, and the polls remain open several hours, depending upon the population of the township.

The interesting session of a town meeting occurs after the balloting — usually in the afternoon, but in a few larger towns not until evening. Each voter has been furnished a printed report of the expenditures for the previous year, and the selectmen make an oral report of what has been done during the year. It is then that the policy for the next year is to be discussed — the real interest of the meeting.

Nahum Smith may rise and say, “ I should like to be informed why the selectmen took the stone from Red Hill quarry instead of Cross Roads quarry, which is nearer.” If there is “ a rooster in the bag,” he is rather certain to crow. It is difficult for a political boss or ring to prosper under this system because any bag containing a rooster must annually or oftener be brought into the presence of the interested parties, and a Nahum Smith is pretty certain to bring at least one crow from the rooster.

Perhaps the cross-questioning of the chairman of the school committee by Jeremy Jones will bring discomfort to the chairman, much to the delight of the boys seated in the rear of the hall. Or perhaps the article under consideration is the purchase of an electric light plant or an automobile chemical engine. Or the younger blood may be advocating a consolidated school or a new high school, which is probably opposed by Aaron, Hiram, and Nahum, who live in the country some distance from the center where the school would be located.

Township Officers. — *Selectmen*, of whom there are three, five, seven, or nine, three being the more usual number, are the principal officers of the township. They are elected by the town meeting, annually as a rule, but in some Massachusetts townships they are elected for three years, one being elected each year.

They issue warrants for holding regular or special town meetings, specifying in a general way the subjects which the citizens desire to have acted upon; lay out highways; grant licenses; arrange for elections; have charge of township property; appoint some of the minor officers; and may act as assessors, overseers of the poor, and health officers. It should be borne in mind that they have no power to determine the tax rate or appropriate money, these functions being performed by the town meeting, and that they have no powers except those conferred by the State or the town meeting.

The Town Clerk is just as important as the selectmen, and performs many duties which are imposed upon the county clerk outside of New England. He keeps minutes of town meetings, of meetings of the selectmen, and other town records; he records the vote for State and county officers and issues marriage licenses; and he records births, marriages, and deaths. He is elected by the town meeting for only a year at a time, but is usually reëlected for a great number of years.

Other Township Officers are the town treasurer, assessors of taxes, overseers of the poor, justices of the peace (so considered in some States), constables, commissioner of roads (under various titles), a school committee (board), and numerous other less important officers. Most of these officers are elected at the annual town meeting. Some years ago the township of Middlefield, Massachusetts, had eighty-two voters and eighteen officers.

Difficulties of Township Government. — Township government in New England has a noble heritage, but to-day there are many conditions unfavorable to the town meeting type of government. Ease of transportation and communication is centralizing financial, highway, police, health, and educational powers in the State. The influx of French Canadians and Europeans who are unaccustomed to local self-government adds discord to the town meeting. The growth of factories increased the diversity of interests between the settlement and the surrounding farms. In some places the town meeting has

been undermined by the caucus, held beforehand, to nominate candidates for office.

The increase in the population of many towns has left the town hall too small for a town meeting. Some of the larger towns are remedying this by a limited town meeting. Brookline, now with a population of forty-odd thousand, was the first to adopt this plan. An Act of 1915 divided the town into nine voting precincts and provided for the election of twenty-seven members of the limited town meeting from each. Some settlements that have reached an unwieldy size have been incorporated into municipalities, like cities of other sections of the country; and the city council takes the place of the popular assembly.

Absence of Townships in the South and West. — In the Southern and Western States townships cannot be said to exist. In some States the counties are subdivided into one or more sets of districts for one or more purposes. They have no township meetings, and districts other than school districts usually have no power of taxation or of owning property, and few, if any, officers independent of county officers. They are simply convenient divisions for performing county functions. Different districts exist for various purposes, such as schools, roads, justice, and elections; and one kind of district commonly overlaps another kind. The name for the more important of these districts varies from State to State.¹

III. COUNTY TOWNSHIP SYSTEM

Imitation of New England Township Government. — Nowhere outside of New England is township government so

¹ In North Carolina, South Carolina, Missouri, Arkansas, Montana, and Nevada these districts are called *townships*; in California, *judicial townships*; in Virginia, West Virginia, and Kentucky, *magisterial districts*; in Tennessee, *civil districts*; in Mississippi, *supervisors' districts*; in Georgia, *militia districts*; in Texas, *commissioners' precincts*; in Delaware, *hundreds*; and in the remaining Southern and Western States, *election districts* or *precincts*, except in Louisiana, where the parishes (counties) are subdivided into *wards*.

important as in those six States, but in the tier of States extending from New York to Nebraska it is of considerable importance. The northern portions of these States were settled largely by emigrants from New England, who were accustomed to township government; but those who settled the southern portions were from Pennsylvania and the States to the south of the Ohio River and were accustomed to county government. Those accustomed to county government had never attended town meetings but preferred to elect county officers and trust them with all functions of local government.

The result was a compromise. Some functions were assigned to the county and some to the township. In this tier of States the State government preceded the township government and created it; hence those democratic elements did not develop as they were found in New England, where the township existed first and created the States.

County-Township Conflict in Illinois. — When Illinois was admitted to the Union in 1818 the greater number of her citizens were emigrants from the South, who had settled in the southern part of the State; so the State was divided into counties, which were governed by a small board of county commissioners elected at large according to the Pennsylvania plan.

By 1848 when the second State constitution was framed, New England settlers, or emigrants with New England ideas, had settled in large numbers in the northern part of the State; so in this constitution we find a local option provision which permitted the voters of each county to divide the county into townships whenever the majority should vote in favor thereof. To-day 86 of the 102 counties of the State have townships.

Township Officers in the Central States. — The New England title of *selectmen* is nowhere found in the Central States. In Pennsylvania, Ohio, Iowa, Minnesota, and the Dakotas their place is taken by a "board of supervisors" or "trustees." In other States there is a well-defined head officer who is assisted, and checked in some matters, by a township board. In New

York, Michigan, and Illinois, where this officer is called "super-visor," he is also a member of the county board of supervisors. In Indiana, Missouri, Kansas, and Oklahoma the title of "township trustee" is applied to this officer. The other usual township officers are the clerk, assessor, treasurer, overseer of the poor, overseer of roads, justices of the peace, and constables.

Village Government Weakens Township Government. — Townships of the Central States are not only under greater State and county control than New England townships, but as soon as a considerable settlement develops it will obtain a "village" or "town" charter from the State and then exist as a separate government, performing all or certain functions within its boundaries that were formerly performed by the township. In New England many compactly settled communities which would be incorporated cities in other States and absolutely independent of the township are there a part of the township.

IV. GEOGRAPHICAL TOWNSHIPS

The Terms "Governmental Township" and "Geographical Township" Distinguished. — In the preceding sections we discussed townships merely as divisions of territory for the purpose of government, and these are known as governmental or political townships. Divisions of territory for the purpose of surveys are another kind of townships, and are known as geographical or congressional townships because they are merely bounded by imaginary lines drawn upon the earth in accordance with Acts of Congress.

In States where the geographical townships were surveyed before settlements were made, they were generally used also as governmental townships; but in some localities natural obstacles, such as rivers and mountains, made them unsuitable for purposes of government, and separate areas were created for governmental townships.

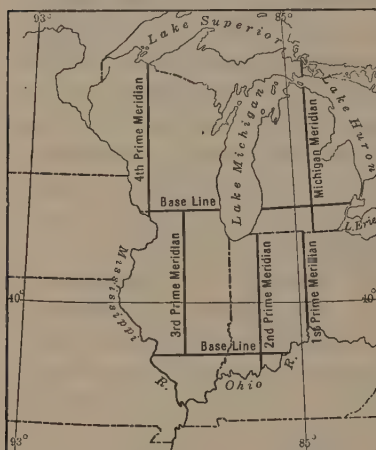
Conditions Preceding Geographical Townships. — During the colonial period New England and the Southern States

developed two very different land systems. In the South as the settlers pushed from Virginia and North Carolina into Kentucky and Tennessee the pioneer selected a fertile piece of land and occupied it. A rude survey was made by a public surveyor or his inexperienced deputy, the limits were marked by "blazing" the trees with a hatchet, and the survey was put on record in the State land office.

Conflicting patents¹ were not infrequently given for the same tracts, and this produced no end of lawsuits. Some of the

feuds for which the mountains of eastern Kentucky were once famous are said to have grown out of these disputed land patents and the irregularly shaped pieces of land which lay between the patents. This Southern system, which encouraged initiative and resourcefulness, has been called "indiscriminate location."

In New England the laying out of geographical townships preceded the



settlements made during the eighteenth century, and there could be no title to land outside of townships. Square townships were easier to survey in a systematic way than those of any other shape; hence when the land north of the Ohio River, known as the Northwest Territory, was to be surveyed, Thomas Jefferson suggested that it be surveyed into square townships for convenience of description when sold by the government, and to prevent disputes as to title. He also had in

¹ "Patent" as here used means a written title to land granted by the proper State authority.

mind that they would be of convenient size for governmental townships.

Geographical Townships in the West. — When Congress was preparing for the government and settlement of this Northwest Territory, the National government decided that it should be laid out into townships six miles square.¹ A law of Congress passed in 1785 applied this system of rectangular surveys to all lands belonging to our public domain. This "Ordinance of 1785" was the foundation of the American land system, and its leading principles have continued in operation to the present day.

According to the system gradually perfected, north-and-south and east-and-west lines are established. As starting points certain meridians have been designated as *prime meridians*. There are twenty-four of these, the first being the dividing line between Ohio and Indiana, and the last running a little west of Portland, Oregon.

On each side of the prime meridian are subordinate meridians known as *range lines*. These lines are six miles apart and are numbered east and west from their prime meridian. There must also be a *base line* for each survey following a parallel of latitude, and this crosses the meridians at right angles. There are numerous base lines for surveys in different parts of the country. For example, eleven of them cross the State of Oregon.

On each side of a base line are subordinate parallels called *township lines*, six miles apart, and numbered north and south

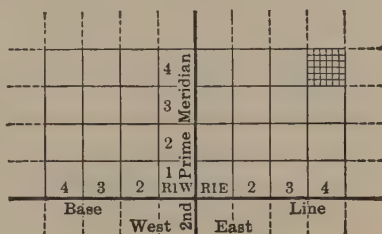


FIGURE 1.

from their base line. Thus these range lines and township lines divide the land into townships six miles square.

¹ The fact that a six-mile square rather than any other size square was adopted by Congress has no special significance.

The map on page 514 shows the prime meridians and base lines in Ohio, Indiana, and Illinois; that is, in the area between the Ohio and Mississippi rivers. From any prime meridian the tier of townships directly east is called range 1 east (R. 1 E. in Figure 1) and of course other ranges are numbered east and west of that meridian. They are likewise numbered 1, 2, 3, etc. both

6	5	4	3	2	
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Six Miles Square

FIGURE 2.

north and south of the base line. Thus the sectioned township in Figure 1 is township 4 north, range 4 east of the 2d Prime Meridian in the State of Indiana.

This township six miles square is surveyed into thirty-six square miles, which are numbered as shown in Figure 2, and each square mile is called a *section*. Each section is subdivided into rectangular tracts known as halves, quarters, half

quarters, and quarter quarters, as shown in Figure 3. Thus if we consider this square mile (Figure 3) as section 1 of Figure 2, we should describe the forty-acre tract starred in Figure 3 as follows: $SW\frac{1}{4}$, $NE\frac{1}{4}$, Sec. 1, T. 4 N., R. 4 E., which means the southwest one quarter of the northeast one quarter of section 1, township 4 north of the base line in range 4 east of the 2d Prime Meridian in the State of Indiana. So you can readily see that if this tract is to be sold, it is very easy to describe it in the deed of conveyance¹ without the costly aid of private surveyors.

NW $\frac{1}{4}$	NE $\frac{1}{4}$
	SE $\frac{1}{4}$
S $\frac{1}{2}$	

One Square Mile

FIGURE 3.

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¹ A deed of conveyance is a contract giving the boundaries of real estate transferred from one person to another.

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QUESTIONS ON THE TEXT

1. Explain how county government originated in America.
2. What functions are performed by county governments?
3. What State first established county "boards of supervisors"? "Boards of commissioners"? How did they differ originally?
4. What legislative powers have the county boards? What administrative powers?
5. What judicial officers has a county?
6. What other county officers are there in the State in which you live? For what terms are they selected? What are their duties?
7. What is meant by *posse comitatus*? Of whom does it consist?
8. What officer does Massachusetts have instead of a coroner? Why is the Massachusetts plan preferable to that of most other States?
9. Who grants marriage licenses in the State in which you live? Who records deeds?
10. How may county-city duplication be remedied?
11. Explain how the New England town or township originated.
12. What does "town" mean in New England? What does it mean in the South and West?
13. What powers do New England towns possess?
14. Explain the work done by a town meeting. What is a town "warrant"? What is a moderator? What are the duties of the selectmen?
15. What are the benefits of a New England town meeting?
16. How are the various town or township officers selected in New England? For what term?
17. What are some of the difficulties of township government in New England?
18. By what name are the districts known into which the counties of your State are divided?
19. Explain to what extent the Central States imitated New England township government.

20. Why are townships less important in States having numerous villages than in New England?

21. Describe the county-township conflict in Illinois. In what division of States are counties least important?

22. In your State what title is applied to township officers, such as the "selectmen" in New England?

23. What is meant by a governmental or a geographical township? How did they come into existence, and why are they useful?

24. Explain how a survey of land is described where geographical townships exist.

QUESTIONS FOR DISCUSSION

1. Give the names of as many county officers as you know.

2. Bound the county in which you live.

3. If you had a vote, would you vote for a member of the county board of commissioners or supervisors who favors low taxes or high taxes?

4. Could your county board enact an ordinance requiring all heavy vehicles to have wide tires? If not, what body could give it authority to do so?

5. In Virginia each city of the first class forms a separate county. The San Francisco government embraces the whole county. Which method of avoiding overlapping powers do you consider best?

6. Some Southern counties have dispensed with a county treasurer and the taxes are collected and warrants paid by a designated bank for about half the usual cost. Do you favor the new plan?

7. In California and in Maryland a county may have a charter and govern itself much as a city is governed. That is, a county may have a greater degree of "home rule" than the other counties of the State if the majority vote in favor of a charter. Would you favor a law permitting your county to have a council and a greater degree of "home rule"?

8. There is no county official corresponding to the President of the United States, the governor of the State, or the mayor of a city. Responsibility is scattered into too many hands. Would you favor centralizing it in a county manager? How should the manager be chosen? Would you have him take the place of other county officers and appoint such assistants as he needs? In that event the people would elect the county board or commissioners, the board would choose the manager, and he would hire and fire his assistants.

9. Should the prosecuting attorneys for counties be elected by the voters or appointed by the Attorney General of the State?

10. Should each county elect an auditor or should the State Auditor appoint district auditors to safeguard the finances of several counties?

11. Should the State Governor appoint county sheriffs?

12. If you do not like the above proposals, would you favor having the county board or commission appoint all county officers?

13. Oregon permits counties as well as cities to vote bonds for water districts and electric power districts. Is this power as logical for counties as for individual cities?

14. The Chamber of Commerce persuaded the farmers of Kent County, Maryland, to pave 51 miles of secondary road in one year. The county had paved roads for tourists and the larger cities, but some of the by-ways were almost impassable in winter. The farmers were shown that paved roads would save them 2 cents on every mile traveled by motor vehicles, so they voted a bond issue. The bonds will be cared for largely by the county's share of the State gasoline tax. In order to bring the road close to all of the farmers they paved nine feet with crushed stone shoulders. Had they made an 18-foot road, half of the farmers would have paid taxes but would have had no paved road. The pavement can be widened as funds are available. Would you favor a nine-foot pavement for the by-ways of your county?

15. Write a county ordinance which you would like your county board to enact. It should begin: "Resolved, That," etc.

16. Does your State have the county system of government, township system, or county-township system? What are the merits of each? Which has the greater educational value? Which is more efficient? Which is more expensive?

17. If you live in a township, name as many township officers as you know.

18. The Torrens System of title registration, devised by Sir Robert Torrens for Australia in 1857, has been adopted by a number of American States. It provides for the conveyance of real property by registration and certificate of title. An officer of the government investigates all the documentary evidence of title, descriptions of boundaries, etc. The owner is furnished a certificate giving details of the title which he has to the property, and a duplicate is filed with the county or township registrar. When the property is sold, the owner delivers a deed which is taken by the State and kept on file, the certificate of title is issued to the purchaser, and the transaction is recorded at the registrar's office. This does away with the necessity of repeated title examinations. Would you favor this system for your State?

CHAPTER XXIV

VILLAGE AND CITY GOVERNMENT AND PROBLEMS

ASSIGNMENT I

I. VILLAGE GOVERNMENT

"Village " Defined. — A village is an organized community whose population is less and whose government is more simple than that of cities in the same State. When enough people collect in a district sufficiently compact to justify such public improvements as sidewalks, street lights, and a public supply of water, a State permits them to form a government separate from that of the township or county in order that they may select officers, collect taxes, and provide these public conveniences within the defined area.

In the New England States villages have not been created, except in a few cases in Maine, Vermont, and Connecticut, because there the township itself is sufficiently organized to collect taxes and provide these public conveniences.

In the West and South the small incorporated centers of population are called "towns," but in the States east of the Mississippi River which border on Canada they are more generally known as "villages," and in Pennsylvania, New Jersey, and Connecticut the English term "borough" is commonly used. However, for the sake of uniformity, the term "village" will be used to include towns and small boroughs.

How Villages Are Incorporated. — Each State prescribes under what conditions and in what manner a community may become incorporated as a village. In Alabama 100 inhabitants are all that are necessary, but a minimum of 200 or 300 is a more

common requirement. Some States further specify that the required number of inhabitants must reside within a prescribed area — a square mile in New York State.

In some States a community may become an incorporated village by a charter enacted by the State legislature, but the usual procedure is for the inhabitants to present to a designated public officer a petition with a prescribed number of signatures. When this officer is satisfied that the conditions necessary to become a village are fulfilled, he will declare that the people living within a certain surveyed area are incorporated¹ as the village of X and have such powers of self-government as the State has granted to villages. In most States the officer may not declare a village incorporated until the inhabitants have voted in favor of it at an election called by the officer when petitioned to do so by a prescribed number of the inhabitants.

Powers of Villages. — The few incorporated villages of New England continue a part of the township for many important purposes, such as roads and schools, but may provide for sidewalks, water, lights, sewers, fire protection, and police protection, independently of the township. In those States which adopted the New England township system the villages remain a part of the township for certain purposes, but are more independent of the township than those in New England.

In certain other States, including New Jersey, Pennsylvania, Wisconsin, Minnesota, and the Dakotas, the villages are entirely independent of the township and have power to perform township functions in addition to the usual village functions. In the South and West, villages, called "towns," are usually included in the township, or county district known by some other name, but as these districts are unimportant the village has power to deal with practically all local problems except those attended to directly by the county.

¹ "Incorporated" means created into a legal body (artificial person) by the State. This body may then bring suit in court, borrow money, or enter into other contracts as a natural person may do.

The Organization of Village Government. — *The Council.* — Every village has a legislative body usually known as the council or the board of trustees. This body varies in number from three to nine, and is usually elected at large for terms of one or two years. In all States the council has power to determine the tax rate, within certain limits prescribed by the State, and to appropriate the money for the various needs of the village.

Generally it can levy special assessments against persons whose property borders streets which have been especially favored by sidewalks or other improvements; but villages have rather limited power to borrow money, and most villages must submit the question of a bond issue to the voters. The power to pass ordinances differs from State to State and often from village to village as provided by the State. Commonly a council may choose certain officers and regulate their duties; pass health and police ordinances on special subjects within certain limits; determine the license taxes of movies, peddlers, public vehicles, and other businesses that are licensed; control streets, bridges, and public grounds; maintain police and firemen; and control any public services owned by the village, such as water and light plants.

The Mayor. — The principal executive officer of a village is usually called "mayor" or "president," and is ordinarily elected for one or two years. He presides over council meetings, and usually has the rights of a member, but in some villages he merely casts the deciding vote in case of a tie, and in very few places does he have the veto power. He enforces the village ordinances enacted by the council, and in a number of States he acts as police justice.

Every village has a clerk or recorder, a treasurer or collector, and a police officer ("constable," "marshal," "sergeant," or "bailiff"). There are in many places a street commissioner, an assessor, and an attorney or solicitor. In the West these officers are usually elected by the voters; in other sections they are commonly selected by the council or appointed. Some

villages have a justice of the peace, and if the village forms a separate school district it, of course, has school officers. Larger villages have such officers as health, fire, lighting, sewer, or cemetery commissioners.

II. CITY GOVERNMENT

Meaning of the Term "City." — A city is a governmental unit created by the State, with more population and more powers than a town or village. Each State determines how many inhabitants a town or community must have to become a city, and what governmental powers it will permit its cities to exercise.

In Kansas a community with as few as 200 inhabitants may become a city, but in New York State 10,000 inhabitants are required. There are about as many of our forty-eight States which create city governments with less than 2500 inhabitants as there are which require a greater population, but the United States census classifies as cities all incorporated places with as many as 2500 inhabitants.

Rapid Growth of Cities. — When the first United States census was taken in 1790 only 123,475 people, or about 3 per cent of the population, dwelt in cities with as many as 8000 inhabitants. New York, Philadelphia, Boston, Baltimore, and Charleston were then the only cities of that size.

Just nine years previous to the taking of this first census Watt had taken out a patent for his double-acting steam engine, which made large-scale manufacturing possible. Fulton's steamboat (patented 1809) and Stephenson's locomotive (1829) made easy the transportation of raw materials to the factories and the distribution of the manufactured products from the factories. Thus factories were erected where there was water transportation or rail transportation, and workmen from scattered shops, which were put out of business by the factories, had to move to the factory town and help make it a city.

As a result of the invention of various farming implements,

*Wide World.*

CITIES CONTINUE TO RISE.

A recent view of New York, showing the Chrysler, Chanin, Waldorf-Astoria Hotel, and Empire State Buildings in the foreground.

less labor was needed for the production of food and other raw material; therefore the excess labor was employed in turning the raw products into luxuries — grains into breakfast cereals, wool and cotton into fine clothes, and iron ore into automobiles. So long as improved machinery and fertilizers continue to reduce the amount of labor necessary to produce the world's food supply, so long will the proportion of people who live in cities probably continue to increase.

In 1930 there were 2559 cities with 2500 or more population; and the total population of such cities constituted 56 per cent of our total population.

The number of cities in the United States with 8000 or more population from decade to decade has been as follows:

DATE	NUMBER OF CITIES	PER CENT OF TOTAL POPULATION	DATE	NUMBER OF CITIES	PER CENT OF TOTAL POPULATION
1790	5	3.1	1870	226	20.9
1800	6	4.0	1880	286	22.6
1810	11	4.9	1890	447	29.0
1820	13	4.9	1900	545	32.9
1830	26	6.7	1910	778	38.8
1840	44	8.5	1920	924	43.8
1850	85	12.5	1930	1208	49.1
1860	141	16.1			

This rapid growth of cities is not peculiar to the United States, but is world-wide, and is due to industrial conditions. City growth in England and Germany has been even greater than in the United States.

New York City, with 7,000,000 population, competes with London for first place among the cities of the world. It has a foreign-born population exceeding 2,000,000, including more than 400,000 Russians; more than 400,000 Italians; and Irish, Germans, and Poles exceeding 200,000 each. There are 1,000,000 Jews in New York City — more than in all Palestine. It has an annual expenditure of more than \$500,000,000, and a debt of \$2,000,000,000.

Council-Mayor Type of City Government. — There are three types of city government in the United States — council-mayor, commission, and manager. Of these the council-mayor type is the oldest and as yet the most prevalent. It consists of a council, usually a large one, to make the laws, and a mayor to enforce them.

Some cities have mayors with strong powers. They appoint the principal city officials and really direct the administration of the city. With a strong mayor and a small council a city government is sometimes reasonably efficient. But most cities of the council-mayor type have a mayor with weak powers, an unwieldy council, and independently elected commissioners or boards; and with this divided authority efficiency is seldom attained.

At one time or another the councils of most of our large cities have been composed of two chambers, a board of aldermen and a common council, but the present tendency is strongly towards a single-chamber council. Of our largest ten cities none retains a council of two chambers, and very few small cities now have councils composed of two chambers.

The council, elected by the voters of the city for terms varying from one to four years, enacts all city ordinances, determines the tax rate, and appropriates the revenues for city purposes.

Committees of the council have some control over the administrative departments, such as the street or police department, but the tendency is to make the head of each department responsible to the mayor.

The mayor is elected by the voters of the city for a term varying from one to four years. Under him are the heads of various departments, such as street commissioner and police commis-



CITY HALL, ATLANTA.

sioner. These officers are elected by the voters in some cities, but in most cities they are selected by the council or appointed by the mayor with or without the approval of the council. In some cities the mayor presides at council meetings, and in nearly all cities he can veto ordinances passed by the council, which can then become law only by a larger vote of the council — usually two thirds.

City judges are sometimes appointed by the governor of the State for long terms, but in most cities they are elected by the citizens for a term of only a few years, and those for minor courts are in some cities chosen by the council.

The school affairs of a city are usually intrusted to an independent board; and in many cities other duties are intrusted to boards more or less independent of the foregoing organization.

The council-mayor type of city government has been criticized because no one person is responsible. The government is so complex that the citizens do not understand the working of

it; therefore some shrewd person, usually a corrupt politician, by making a practical study of it, often makes himself political boss. He receives no salary as boss, but by controlling the elections and filling the offices with his friends he can compel them to spend large amounts of money in a manner which will yield "graft" for him. For instance, in 1868, when Tweed was boss of New York, a courthouse was designed which was to cost \$250,000. Three years later more than \$8,000,000 had been expended upon the building and it was still unfinished. For thermometers, \$7500 was charged. Contractors for various parts of the building presented enormous bills and then divided with the boss.

Even if a city avoids a boss it is little better off. The officers are then elected at random and are not likely to work together harmoniously. The mayor will veto the ordinances passed by the council, or the department heads will not enforce them, or the head of the water department will tear up the new paving laid by the street department.

If an individual wants to make complaint of bad service and goes to the head of a department, the citizen will, in all probability, be told that the mayor has not authorized the department to act. He then goes to the mayor and is told that the request is a proper one but that the council failed to vote funds for that particular service. The individual cannot visit a hundred councilors, more or less; therefore the bad service continues bad. Each officer shifts the responsibility to another because no one has power to act.

This complex government has fallen into bad repute in many places, and has been abandoned for the more simple types of city government such as the commission or the manager types, which reduce the number of offices and centralize responsibility.

Commission Type of City Government. — A commission government is one in which a few elective officers (usually five) exercise all legislative and executive powers and are held responsible to the voters for their proper use. This form of city

government was first tried at Galveston, Texas, in 1901, and came by chance. On September 8, 1900, a tidal wave swept over the island city. The bridges connecting the city with the mainland collapsed, buildings fell, the waterworks and the lighting plant were destroyed, the wood-block paving floated off in great strips, and about 6000 of the city's 37,000 inhabitants perished.

This city had been extravagantly managed under its council-mayor type of government. Expenditures had regularly exceeded receipts, and the deficit had been made up by selling city bonds, that is, by borrowing. After the flood, persons owning these bonds had so little faith in the government that they were willing to sell them for sixty cents on the dollar. The old inefficient council of twelve men passed resolutions but did little else to restore the city and its credit.

The Deepwater Committee, an organization of substantial business men previously formed to bring about the improvement of the harbor, interested itself and had a new city charter prepared. They had a member of the State legislature present it to the legislature for adoption. At the same time the Deepwater Committee issued an address to the people of Galveston, which read, in part :

"We are asking for a charter placing the entire control of the local government in the hands of five commissioners, designed to benefit the people rather than to provide sinecures (offices with no special duties) for the politicians."

The legislature granted the charter, and in September, 1901, a year after the catastrophe, the new government went into operation.

The Galveston Type of Commission Government. — The Galveston government has undergone practically no change during the intervening years, except that in 1903 the provision whereby the governor of the State appointed three of the five commissioners was declared to be in conflict with the constitution of the State. Since that date all the commissioners have been

elected; hence the name "commission government" no longer accurately describes the government, because a commissioner is a person appointed. However, the name "commission government" has persisted, but in all commission cities the commissioners — called *council* in many "commission cities" — are elected. The provisions of the Galveston charter are:

(1) Four commissioners elected by the voters of the entire city for terms of two years with a salary of \$1200 a year. (These commissioners are business men, and devote only a portion of their time to the city service.)

(2) Joint power of the commissioners

(a) to enact all city ordinances, except that bond issues must be submitted to the people for their approval or rejection;

(b) to grant franchises (permits) for such public services as street railways;

(c) to appoint an expert head and subordinates for each administrative department and dismiss them with or without cause.

(3) Commissioners elected for following departments: finance and revenue, waterworks and sewage, police and fire, and streets and public improvements.

(4) Mayor-president elected by the voters for two-year term. (He must devote six hours a day to city affairs; receives \$2000 a year; has no veto; and is merely first among equals so far as actual power is concerned, but endeavors to harmonize the work of the commission and represents the city at social functions.¹)

Good results from the new form of government were almost immediate. A sea wall was built, a causeway for vehicles and for electric and steam railways was constructed to the mainland, and the level of the city was raised.² Bonds are again

¹ The school board is elected at a special election and is not subordinate to the commission, but is dependent upon it for appropriations of money. Judges are likewise selected independently of the commission.

² A canal $2\frac{1}{2}$ miles long, 300 feet wide, and 20 feet deep was excavated from Galveston Bay through the residential section of the city. The houses were moved to vacant lots. Self-loading, self-propelling, and self-discharging dredges sucked sand from the bottom of the bay, brought it into the canal and discharged it through pipe lines, the water draining back into the canal. When the work was completed the canal was refilled and the houses replaced on the foundation thus made.

worth full value, and a proper proportion of the debt has been paid without increasing the tax rate.

During the decade following the change in the form of government \$136,000 was earned in interest derived from city deposits. Under the old régime no interest had been required of the favored bankers. The Galveston plan soon became famous and spread to other Texas cities.

In 1907 the citizens of Des Moines, Iowa, became dissatisfied with their council-mayor type of government, and the Commercial Club arranged a debate to discuss the merits of the commission government as compared with a small council and strong mayor plan. As the result of the debate a large majority of the committee of three hundred citizens who had been named as "jurors" decided in favor of the commission plan. The Iowa legislature was appealed to, and enacted a general law allowing any city of a prescribed population to adopt this new plan of government.

The Des Moines Type of Commission Government is practically the Galveston plan with the five additional features :

(1) *The Initiative* — 25 per cent of the voters can propose a city ordinance and have it voted upon at a special election, or 10 per cent of the voters can have an ordinance voted upon at a regular election.

(2) *The Referendum* — 25 per cent of those who voted at the last election can have an ordinance which the commission has passed referred to popular vote for approval or rejection, provided the petition is presented within ten days of the date of its passage.

(3) *The Recall* — 25 per cent of the voters may demand that any one or all of the commissioners again stand for office at a special election called before the expiration of the term.

(4) *Non-Partisan Primaries Followed by Non-Partisan Elections* — Any person may have his name placed upon the primary ballot by presenting a petition containing twenty-five names. The names of candidates are arranged alphabetically with no indications of party. The ten highest are placed upon the ballot for the regular election in the same manner, and the five highest are elected.

(5) *A Civil Service Committee* — A committee of three citizens is appointed by the commission, for a term of six years, to examine em-

ployees for subordinate positions. The employees, however, may be removed by the commission.

The advantages of the commission government are: (1) the number to elect is small; (2) they can act promptly; (3) they have full power to act, and cannot shirk their responsibility by referring an aggrieved citizen to some one else; and (4) they are easier to watch than if they were many.

The way to get good government is to give power to a few people and watch those few in order to hold them responsible. A city boss does not steal when he is being watched. The commissioners meet in public, record their votes for the inspection of the public, publish their ordinances in the papers, and issue frequent financial reports.

If they refuse to enact an ordinance which the majority of voters desire, the voters themselves may initiate and pass it (initiative); if the commission passes one which the voters do not want, they may have it referred to them and reject it (referendum); if the commissioners are believed to be dishonest or are inefficient, a new election may be called and one or all of the commissioners recalled by electing others to take their places (recall). Thus we get government for the people by a few who are responsible to the people.

But it must be remembered that no plan is self-executing or can dispense with civic righteousness and public spirit. A good type of government does not take the place of other reforms, but supplements them. Eternal vigilance on the part of citizens will always be the price of good government.

The Manager Type of City Government. — The manager type of government is really a modification of the commission type. It usually consists of a council of three or five members, except in very large cities, who determine the policy, but select a manager to administer the government of the city. The council of five who represent the people are like the directors of a commercial corporation who are selected by the stockholders to determine the business policies, and the city manager selected

by the council is like the general manager of a commercial corporation.

In 1907 Staunton, Virginia, was casting about for a plan of government which would increase the efficiency of its city government, and would have adopted the commission plan had not the constitution of Virginia then required all cities of the first class to have a two-chambered council, for Staunton is a city of the first class. However, the city charter permitted the council to appoint new officers, and early in 1908 it appointed a "city manager." The manager was given full charge of the administration of the city, and was allowed to appoint and dismiss heads of departments and other city employees.

The manager of Staunton for the first three years was Mr. Ashburner of Richmond, formerly construction engineer for the Chesapeake and Ohio Railroad Company. Through business-like methods he brought about efficient administration for the city. For example, by purchasing supplies for all of the departments he saved a neat sum for the city; he laid granolithic walks at about half their cost when put out at contract under the old system; and by putting meters in all houses the usual shortage of water was overcome. About a hundred other cities have added a manager to their existing form of government.

The first real manager government was organized by Sumter, South Carolina. The National Short Ballot Organization, which has since merged with the National Municipal League, prepared a model charter which, with a few modifications, Sumter adopted in 1912, after obtaining permission from the State legislature. The first three councilmen were exceptionally capable men, one being a planter, one a banker, and the third a lawyer. They advertised for a manager and chose one from another State. He brought about a number of economies.

An interesting incident is told of how this manager got rid of mistletoe which was killing miles of trees in the streets of the

city. It had not been removed previously because of the great cost. The manager knew that mistletoe has a time and place value, so he had a number of workmen cut the mistletoe from the trees and sold it in the North for enough to cover the entire cost of having the trees cleaned.

An amendment added to the Constitution of Ohio in 1912 permits cities to draft their own charters, and after the flood in the spring of 1913 Dayton elected a charter committee pledged to the manager plan, and their charter was accepted by the voters. Dayton was the first city with more than 100,000 inhabitants to adopt the manager plan.

The Dayton Type of Manager Government is as follows :

(1) A Commission of five elected from the city at large for a term of four years, partial renewal biennially, on a salary of \$1200. Duties: enact ordinances, determine policy, make appropriations, and elect a manager and a civil service board.

(2) A Mayor who is the commissioner receiving the greatest vote the year that three are elected. Merely first among equals. Duties: presides at meetings of the commission, is ceremonial head of the city, suits against the city are brought in his name, is agent of the governor in carrying out the State militia law, but has no veto.

(3) A Manager chosen by the commission for an indefinite term. Removed either by commission or by recall of the voters. Salary determined by the commission. Duties: enforces the city ordinances, employs and dismisses department heads, dismisses even civil service employees subject to appeal, advises commission as to needs of city.

(4) Non-Partisan primaries and elections.

(5) Initiative.

(6) Referendum.

(7) Recall of commissioners or manager.

(8) Publicity provisions as in the regular commission plan.

The manager type of government has given satisfaction to the majority of people in Dayton, but minority groups, such as Socialists, complain that they have no representation because all five commissioners are elected at large.

About 450 cities and towns have adopted the manager type of government either by charter amendments or by ordinances

where councils have added a manager to their old type of government.

The advantages of the manager plan are: (1) The burdensome duties are performed by the manager, therefore a prominent business man can afford to serve as commissioner because he can continue with his regular business. (2) The manager may be chosen from within or without the city. (3) The man-



CITY HALL, OAKLAND, CALIFORNIA.

ager may be chosen without political considerations. (4) Powers and responsibility are centered in one man. "If anything goes wrong you know whom to hang." Either the manager or three of the five commissioners are to blame. Commissioners give the manager great latitude. (5) It makes city governing a profession instead of political "graft." For instance, the manager of Staunton received \$2500 a year, but was successful and became manager of Springfield, Ohio, on a salary of \$6000, and then of Norfolk, Virginia, at \$12,000, and then of Stockton, California, at \$20,000.

City Charters. — A city government has only such powers as the State grants it. These powers are usually enumerated in a charter which contains the name of the city, a description of its boundaries, the form of its organization, and an enumeration of its powers. Until recent years it was the practice in most States for the legislature to grant a separate charter for each city. This procedure occupied much of the time of the legislatures and resulted in a favoritism to certain cities. In time, however, many State legislatures grouped their cities into classes according to population and enacted general uniform laws for the government of all cities of a class.

Home Rule for Cities. City inhabitants felt that they should have more control over their own government, and "home rule" provisions were placed in the constitutions of a number of States. These provisions allow the people of a city, under certain restrictions,¹ to frame their own charter. Of course these charters must not contain provisions inconsistent with the State laws.

Of the States permitting cities to draft their own "home rule" charter none is more liberal than Ohio.² The Ohio Con-

¹ The restriction may be a four-sevenths majority of the city voters, the approval of the governor, or the approval of the legislature.

² The following States have constitutional municipal home rule:

STATE	YEAR OF ADOPTION	APPLICABLE TO
Missouri	1875	Cities of over 100,000
California	1879	Cities of over 3500
Washington	1889	Cities of 20,000 or over
Minnesota	1896	Any city or village
Colorado	1902	Cities of 2000 or over
Oregon	1906	Any city or town
Oklahoma	1908	Cities of over 2000
Michigan	1908	Any city or village
Arizona	1912	Cities of over 3500
Ohio	1912	Any city or village
Nebraska	1912	Cities of over 5000
Texas	1912	Cities of over 5000
Maryland	1915	Baltimore and any county
Pennsylvania	1922	Any city
New York	1923	Any city
Wisconsin	1924	Any city or village

stitutional Convention of 1912 gave cities the power either to frame their own charters or to adopt by local referendum any general or special charter laws which the State legislature might pass. The legislature promptly prepared three model charters: one of the council-mayor type, one of the commission type, and one of the manager type. However, most of the larger cities of Ohio prepared their own charters and are now enjoying self-made or "home rule" charters.

A home rule charter may be framed by the city council, by a group of interested citizens, or by a charter convention composed of elective delegates. It is then submitted to the voters for ratification or rejection. Amendments are submitted by the council or else initiated by petition, but must be submitted to the voters.

Legal Liability of Cities and Towns. — *Liability for Breach of Contract.* — The city or town is liable to the same extent and in the same manner as a private corporation for contracts legally made in the exercise of powers granted it by the State.

Liability for Torts (Wrongs) of Employees When Engaged in Undertakings of a Private or Corporate Character. — If a city or town operates a water system, a lighting plant, a street railway, or other income-producing properties, the city or town is engaged in business and is liable for the wrongful acts of its officials and employees very much as a private corporation is liable for its officers, employees, and other agents.

Not Usually Liable for Torts of Employees When Engaged in Purely Governmental Functions. — "The King can do no wrong" is an adage handed down to us through the ages. After our separation from England we associated the same idea with the State: "The State can do no wrong." The birth of counties, townships, cities, and villages as offspring of the State carried with it this heritage of governmental immunity. Thus a city is not usually held liable for wrongs committed by such city employees as police, firemen, public school teachers, or employees

of the health service, because these functions are performed for the general good and not for profit.

Tendency to Increase Liability of Cities.—According to common law inherited by our States from England, a city is not liable for the wrongful acts of its employees engaged in governmental functions. But the State courts (*e.g.*, in Ohio) have increasingly construed common law so as to increase the liability of cities.

Also State legislatures have here and there enacted statutes specifically increasing the liability of cities. For example, in 1929 the California Legislature removed all governmental immunity of the State and its subdivisions respecting damage caused through the negligent operation of any motor vehicle by its employees.

According to this California Act, the city is liable for damages if a traffic officer or a driver of a fire engine negligently injures another car or a person. But we must not let this exception mislead us. Outside of California, or a State with similar legislation, the general common law rule would not hold the city liable under these circumstances.

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QUESTIONS ON THE TEXT

1. What is a village?
2. In what section of the country are small incorporated centers of population called *towns*? *Villages*? *Boroughs*?

3. What is meant by the term *town* in the New England States?
4. How are towns or villages created in the State in which you live? How many inhabitants are necessary?
5. What are the usual powers of towns or villages?
6. By what name is the legislative body of a town or village commonly known? What character of ordinances may it enact?
7. By what title is the principal executive officer of a town usually known?
8. What other officers do towns or villages commonly have?
9. How does a city differ from a town or village?
10. How many inhabitants are necessary for city government?
11. What per cent of the American people lived in cities in 1790? In 1930?
12. What has been the cause of such rapid growth of cities? Is this rapid growth of cities peculiar to the United States?
13. What three types of city government are there in the United States?
14. Is the tendency toward a council of two branches or of one branch?
15. Explain the present organization of the council-mayor government for cities.
16. How is the mayor selected and what are his duties?
17. How is the council selected and what are its duties?
18. Explain why the council-mayor type of city government does not work well and why it is favored by political bosses.
19. Describe the commission type of city government. Explain how it originated in Galveston.
20. Is "commission government" the correct name for this type of government?
21. What do you mean by a *city charter*? What are the provisions of the Galveston charter?
22. What are some of the benefits derived from this new form of government in Galveston? Tell how it came to be adopted by Des Moines.
23. What five features did Des Moines add to the Galveston plan?
24. Name four advantages of the commission type of government.
25. Describe the manager type of government. Explain how the idea originated in Staunton, Virginia.
26. Explain the working of this type of government in Sumter, South Carolina.
27. Why and when was the manager type adopted in Dayton, Ohio?

28. Explain the Dayton type of manager government.
29. What are the advantages of the manager type of government?
30. What is meant by "home rule" for cities? Why is it important? Which State has the most liberal "home rule" provisions?
31. Explain to what extent a city is liable for breaking a contract; for wrongs resulting from negligence of its employees.

QUESTIONS FOR DISCUSSION

1. What offices has your town or village and by whom are they filled?
2. Bound your town or village. Name all the incorporated towns or villages within your county.
3. What county taxes are paid by the residents of your town or village?
4. What is the population of your town or village?
5. Why does your town or village need a government distinct from that of your county?
6. Has your town or city a civic improvement league of any sort? If so, what valuable services does it perform? How can you assist it? Does it improve the school grounds? Does it place waste paper receptacles along the sidewalk? Does it place bulletin boards at certain places along the main streets for posters so that they will not be stuck over buildings, fences, and telephone posts? Does it take part in the social service or moral uplift work?
7. Would it be wise for your town or village to have a public meeting annually and hear reports from your officers and discuss needed improvements? Also, may not your representative to the State legislature give an account of the most important things done by the legislature for the village, county, or State?
8. What determines the location of cities?
9. Does your State constitution contain any provisions in regard to cities? What are they? Could your town become a city? How?
10. How many cities has your State? What is the population of the largest? Of the one in which you live?
11. Name the principal officers of your city. How are they selected? For what term?
12. The cities of Ohio are allowed to draft their own charters. Do you think every city should be allowed to prepare its own charter?
13. States may enact any laws which do not conflict with Federal laws. Why not allow all cities to enact any laws which do not conflict with State laws?

14. Is a city likely to get the best results by electing only a few officers or many?

15. Other things being equal, should a city manager be an old resident of the town or an experienced manager from another town?

16. Would you advocate paying a manager of a city of 100,000 population ten or twenty thousand dollars?

17. A city charter authorized the city to "construct and operate an airport." The city constructed an airport, but leased it to an individual instead of operating it. Why did the court decide that the city did not have power to lease the airport?

18. According to the common law rules would a *city* be liable for damages in most States under the following circumstances?

(1) A policeman lost his temper when arresting a drunken driver and broke the latter's arm.

(2) The motorman of a city-owned and city-operated street railway started his car too soon and injury resulted to a passenger boarding the car.

(3) The city ambulance carrying a patient to a quarantine station drove recklessly and smashed a private car.

(4) Typhoid fever was contracted from city water because of carelessness on the part of the city employee in charge of the reservoir.

(5) A Chinese restaurant was destroyed by a gang of ruffians because the police were sympathetic with the gang and did not give vigorous protection.

19. Would you vote to make your city liable for all damage to individuals or their property through negligence on the part of your city employees? For malicious acts on the part of the employees? For accidents which they cannot avoid? Is your city or the individual better able to bear the loss?

20. If your city were liable for damages under all circumstances, would it be more or less careful in the selection of its officers? Would it be likely to pay higher salaries?

21. If you should choose city managership for a profession, what kind of educational preparation would you make?

22. Should the United States establish academies similar to West Point and Annapolis for the training of city officials?

VILLAGE AND CITY GOVERNMENT AND PROBLEMS

ASSIGNMENT II

CITY PROBLEMS

City Planning. — Washington City was planned by L'Enfant before it was built. It has beautiful circles, adequate parks, parallel streets systematically named according to the alphabet with those at right angles numbered, houses numbered 100 to the block, and wide avenues cutting diagonally through the city as the shortest distance between two points. Paris was remade a quarter of a century ago by Napoleon III, who was unhampered by legal restrictions for the protection of private property which have made large-scale city improvements in America difficult. Most American cities have just grown without plan, except as the selfish interest of the realtor dictated. However, to-day most cities have planning commissions; and even if most of them are not accomplishing much, their existence proves that we are awakening to the need of planning — an essential forerunner of action.

Radburn Plan. — The City Housing Corporation, a limited dividend company,¹ has just built a town in New Jersey called Radburn. It is planned to provide the utmost in health, safety, convenience, and happiness for those who live there. Most of us have continued to build our homes facing the street, without stopping to consider that the street of to-day is comparable to a railway track. We have a steady stream of smelly, honking motor cars, busses, and trucks, raising dust and giving off fumes, and making the front porch anything but a pleasant place to spend an evening.

¹ Profits on the stock are limited to 6 per cent per annum. Surplus profits go into improving the community or lowering the cost of the houses.



Courtesy of Woodward and Lothrop.

THE CITY BEAUTIFUL.

View of the Arlington Memorial Bridge, the Lincoln Memorial, and the Washington Monument. A demand for more of the beautiful would help solve the unemployment problem.

At Radburn homes are grouped in enormous blocks bounded by traffic arteries. The houses do not face on these traffic avenues but cluster around short closed-end streets opening off the traffic roads. Thus only such traffic as is intended for the houses on any particular closed-end street will enter it.

In the United States an automobile kills some one every fifteen minutes, so Radburn provides safety for those who walk. While one side of the house faces on the closed-end street, the other side faces on a garden through which pedestrians enter on a path which leads into a long park strip running through the center of the super-block. Instead of walking over a traffic street you have underpasses connecting the blocks.

The center of a large block is a park or playground, or school, or other civic or benevolent institution.

Metropolitan Areas. — Where several or a number of cities grow up near together, there are problems which are common to them all and cannot satisfactorily be handled by them singly. Such problems are water supply, sewage disposal, law enforcement, transportation, and city planning. These problems are sometimes met by the creation of special districts for dealing with one or more problems common to the whole area. In time a federal system might develop with one authority handling problems affecting the whole region, with minor authorities for smaller districts within the larger area.

In 1898 the boundaries of New York City were extended to include the adjacent urban area within the State of New York, within which five boroughs were provided. There is one mayor and a central legislative body, but each borough has a president with limited power over local improvements.

In 1921 a Port of New York Authority was created with jurisdiction over an area of 1500 square miles and a population of more than 8,000,000. Three members of this commission are appointed by the Governor of New York and three by the Governor of New Jersey. The duties of this Port Authority are to plan for the development of the port, secure the best



NEW GEORGE WASHINGTON BRIDGE WHICH WAS COMPLETED IN 1931.

This bridge extends from Broadway near 178th Street, New York City, to Fort Lee, New Jersey. The main span is 3500 feet long, the towers are 635 feet high, and the four wire cables are each 30 inches in diameter. The top level provides for six lanes of vehicles and two of pedestrians. A bottom level can be added if it is needed. Sixty thousand cars crossed the bridge the first day it was open to vehicles.

The Port of New York Authority financed the bridge by issuing 4% bonds amounting to about \$60,000,000. The bonds are secured by a first lien on the revenues which will be derived from the tolls.

It is interesting to note that the steel towers are five and a half inches higher at the temperature of 90 degrees above zero than they are at 10 degrees below zero.

use of its facilities, and construct and operate bridges, tunnels, and other utilities — all to be financed by the sale of bonds secured by the pledge of the works themselves and their revenues.

The Boston Metropolitan area includes about forty municipalities, of which the population of Boston proper is only about one third. In 1889 a metropolitan sewerage district was created; in 1891 a metropolitan park commission; and in 1895 a metropolitan water board. In 1918 a metropolitan district commission was created, which combines the functions of these authorities, and also has duties in connection with planning the development of the metropolitan region. The governing authority of this district is a board of five members appointed by the Governor of Massachusetts. There is also a rapid transit commission for this region.

Zoning. — *Introduction.* — One would be surprised to find a cook stove in a parlor or a piano in a kitchen. Yet it was just as absurd for American cities to allow stores to crowd in at random among private dwellings, and factories and public garages to come elbowing in among neat retail stores or well-kept apartment houses, or tall and bulky office buildings to rise so closely crowded that the lower floors become dungeon-like and unsatisfactory for human use.

The courts would not allow city councils to restrict the use of private property except in case of such well-recognized nuisances as pig pens, glue factories, tanneries, slaughter-houses, forges, gas works, oil tanks, powder magazines, and the like. We inherited the right to regulate the location of these nuisances in the common law of England.

In time sanitary science taught us that there were many nuisances which we had not formerly recognized; and with the spread of culture, ugliness hurt the eyes as noise had hurt the ears or odors the nose. So judges recognizing new nuisances gradually permitted more and more regulation of private property as a proper exercise of the police powers. For example, Boston was allowed to limit the height of buildings. Then



SUMMARY OF 1930 POPULATION FIGURES FOR BOSTON METROPOLITAN DISTRICT.

	Population	Area in Square Miles	Density per Square Mile
Boston	781,188	43.90	17,794.7
79 outside cities and towns . . .	1,526,709	978.70	1,560.
Total Metropolitan District . . .	2,307,897	1,022.60	2,256.9

1930 POPULATION OF CERTAIN CITIES AND TOWNS

(Cities shown in capitals)

BOSTON	781,188	CHELSEA	45,816	MEDFORD	59,714
BROCKTON	63,797	EVERETT	48,424	NEWTON	65,276
BROOKLINE	47,490	LYNN	102,320	QUINCY	71,983
CAMBRIDGE	113,643	MALDEN	58,036	SOMERVILLE	103,908

Los Angeles was allowed to exclude brick yards from residential districts. And Roanoke, Virginia, was allowed to require buildings to be erected a specified distance back from the street.

It has long been the practice of real estate dealers in establishing suburban plots to sell the lots subject to certain restrictions as to their use. These restrictions are incorporated in each deed of conveyance. But it is only since a Supreme Court Decision rendered in 1926 that the cities have definitely known that it is legal to plot a whole city into districts, or zones, in which there are restrictions as to the height and size of buildings, the percentage of the lot that may be occupied, the size of yards and courts, the location and use of buildings, and the use of land for trade, industry, residence, or other purposes.

The Purpose of Zoning is well stated in the following ten points set forth by the Boston City Planning Board :

1. Zoning divides the city into districts, according to the most suitable and valuable uses for each district, based on existing conditions and future needs, and regulates the location and use of new buildings.

2. Zoning makes provision for ample *general business districts* in suitable locations in which industrial plants may not impair the business environment.

3. Zoning places suitable land in *industrial districts* where the best of transportation facilities by rail, water, and highway may be secured and factories may easily expand without tearing down expensive buildings.

4. Zoning provides *unrestricted districts*, suitable places for those heavy industries such as stockyards, boiler works, coke manufacture, and other industries that would be objectionable elsewhere.

5. Zoning regulates the *heights of buildings* appropriate to their use, so as to provide an equitable distribution of light and air for all, minimizes overcrowding of people, and relieves traffic congestion.

6. Zoning provides *local business districts*, conveniently located near residential neighborhoods, where stores will be concentrated instead of being scattered everywhere.

7. Zoning protects the comfort, convenience, and quietness of *residential districts* by excluding stores, public garages, laundries, factories, and other business and industrial uses.

8. Zoning establishes *uniform building lines* in residential districts to assure an equal amount of light and air and access for all residences.

9. Zoning provides adequate light and air by *side and rear yards* around every building in the suburban residential districts and establishes the *percentage of area of a lot* that may be occupied by buildings.

10. Zoning preserves the home character of single and two-family *residence districts* by segregating types of residences into districts where they are appropriate.

Zoning Is Constitutional. — The village of Euclid, an incorporated suburb of Cleveland, passed a comprehensive zoning ordinance. The Ambler Company, owning 68 acres of unimproved land in this village, asked the Court to forbid the enforcement of the ordinance, claiming that enforcement would reduce the value of its property, and deprive it of liberty and property without due process of law. (See United States Constitution, Amendment XIV and pages 345-351.)

In 1926 the U. S. Supreme Court denied that the Company was being unreasonably deprived of its property and upheld the constitutionality of this zoning law. The Court shows by the following examples how the village was exercising its proper police powers to protect the health and morals, and to promote the safety and general welfare :

(1) Large buildings shut out the sun's rays from residences ; factories are often malodorous ; food markets are apt to breed and harbor rats, mice, roaches, and flies, hence spread contagious diseases ; and places of business are noisy and are likely to be disturbing at night and thus cause or intensify nervous disorders.

(2) Pool halls and other open shops invite loiterers and idlers to congregate, thus rendering a neighborhood less wholesome for rearing children.

(3) Business houses increase traffic and accidents, and make the neighborhood unsafe for children.

(4) The cost of paving streets is less in a zoned city because less expensive streets are satisfactory in residence districts

where there is no heavy traffic. Also fire protection is less costly if the high buildings are segregated.

Therefore this zoning ordinance is constitutional because it protects the health and morals, and promotes the safety and general welfare of the people.

Zoning Must Reasonably Promote Health, Morals, Safety, or Welfare of the Citizens. — Unless the restriction in the use of property can be justified in the courts as a proper exercise of the police powers, it will be declared void as depriving one of liberty or property without due process of law. (Amendments V and XIV.)

Any act passed by one of our State legislatures which is considered unreasonable by a majority of the United States Supreme Court will probably be declared unconstitutional. But it is well recognized that the States, or the cities with the consent of the States, have power to protect the health, morals, safety, and general welfare of the community. These powers are called the "police powers" of the States.

Therefore when a city wishes to establish zones, it should request the State legislature, which is the repository of the police powers, to grant it the right to zone the municipality.¹ The State enabling act should give the power to a discretionary administrative board, usually called a *board of adjustment*, to vary the strict letter of the law and issue permits in cases of practical difficulty or unreasonable hardship.

After a city or town has received the power to create zones it must in the zoning ordinance treat land and buildings reasonably and be sure that the regulations are related to the health, safety, morals, or general welfare of the community.

If these precautions are taken and an enabling act is obtained from the legislature as good as the model prepared by the United States Bureau of Standards, and the city council

¹ Home Rule cities would not seem to need this special permission, but even these cities will have their positions strengthened if the State legislatures give their approval by an enabling act applying to its cities.

passes a carefully prepared reasonable ordinance, it is constitutional.

A Zoning Ordinance Must Not Be Retroactive except as Applied to Nuisances. — A zoning ordinance cannot require buildings higher than the specified height to be torn down, nor apartment houses in a restricted district to be abandoned, nor residences moved farther back from the street. But as the city grows it can require slaughter houses, powder magazines, and brick yards to move to other zones because they are considered nuisances in a fine residence district. In California a brick yard was required to move notwithstanding the fact that the owner claimed that his clay was especially suitable for burning, that it was worth \$800,000, whereas the land for building sites was worth only \$200,000.

Excess Condemnation. — In Europe and Latin America much attention has been given to city planning. Paris is beautiful because whole districts, with their narrow streets and congested tenements, were razed to the ground and built anew with broad avenues and boulevards converging in plazas. This was possible because the city could condemn whole sections and resell all the land in excess of that needed for the streets and plazas, under restrictions which would insure the beautiful.

In America, if land is needed for a public use, the city may have it condemned through the right of eminent domain. To take land for streets, parks, public-building sites, bridge heads, and the like, is clearly to take it for public purposes. But it may be desirable, in connection with a public improvement, for a city to acquire more land than is actually needed for the immediate purpose. For example, if land for a new city hall is acquired in a congested district, it may be desirable that the city should take some unsightly property near by in order to have the new structure set in favorable surroundings. It may also be desirable to resell the excess land under such restrictions as will insure the attractiveness of the district. This is the regular procedure in Europe, but in many American cities, the constitutions, laws,

and courts stand in the way. However, some States have amended their constitutions, and their courts now permit "excess condemnation." Hence, city planning with an eye to the beautiful as well as the serviceable is becoming possible.

Billboards. — Nothing mars the beauty of city streets more than billboards. City laws prohibiting billboards on private property have usually been declared unconstitutional because the courts have considered the restriction an unreasonable interference with one's use of his private property. (See United States Constitution, Amendment XIV.) The courts do not *yet* consider the unsightliness of billboards a sufficient annoyance to compel one to remove them from his private property. However, billboards which might conceal thugs, produce disease, set fire to adjoining property, blow down and destroy life, or obstruct the vision and endanger traffic may be prohibited.

For instance, New York requires fireproof billboards with secure wind braces and prohibits electric signs which unduly interfere with sleep. Chicago requires billboards to have an open space below them and at the sides. St. Louis limits the area of billboards to 500 square feet, some cities tax them as real estate, and others impose a license tax of so much a square foot.

Public Utilities. — A public utility is an enterprise which, though under private ownership, makes use of public property and is a natural monopoly. Street railways, telephone lines, gas plants, and electric lighting plants are good examples of city public utilities.

In past years many cities tried the plan of setting two public service companies at rivalry with one another, but this involved public inconvenience, and soon competition proved unprofitable and a resulting combination would raise rates enough to recover former losses.

There can be no economic competition between public utilities operating in the same area. Therefore, as public utilities

are monopolies by nature, there must be public authorities over them to prevent any abuse of their power. These public authorities are needed in the interest of

(1) the individual citizen, because it is the inclination of monopolies to enrich themselves at the expense of their customers and patrons ;

(2) the community, because high prices of public services discourage city growth ;

(3) the company, because, if regulated, investors will have more confidence, and capital can be procured at more reasonable rates.

A public utility must obtain a *franchise* (right to use public streets or other property), which is commonly granted by the city council. This franchise specifies the duration of the privilege and contains many provisions as to the rates and quality of service.

In order to make the regulation of public utilities elastic it is usually provided that differences of opinion regarding rates and service shall be determined by a *public service commission*. The larger cities sometimes have a public service commission of their own, but more often a State commission regulates rates in the cities as well as in other parts of the State because

(1) the public utility often extends beyond the city boundaries ;

(2) the commissions are expensive ;

(3) a State commission is less likely to be prejudiced.

Electric Railways. — Most of our street railways are privately owned, but there are a few cities that own their railways. San Francisco began to operate certain lines in 1912 and has gradually extended them. In 1919 Seattle purchased the lines within the city limits. In 1922 Detroit, and Ashtabula, Ohio, did likewise. There are a few smaller cities that own and operate their street railways. City governments have usually participated in the building of subways.¹

¹ The only American subway systems for passengers are those of Boston, Greater New York, and Philadelphia. Chicago has a subway for freight.

A new development in the field of electric railways is the trackless trolley. In several cities, including Baltimore and Salt Lake City, lines are operated. The advantages of the trackless trolley are: (1) The cost of constructing a trackless trolley line is only about \$4000 a mile in comparison with \$40,000 and up for a track and trolley; (2) the cost of operation is less than



PEDESTRIAN TUNNEL UNDER A HEAVILY TRAVELED THOROUGHFARE.

This tunnel was constructed for the protection of school children.

that of the standard car or the gasoline bus; and (3) it can pull up to the curb for passengers and can go around other traffic.

Traffic congestion, accentuated by motor transportation, has become a problem in all cities. Street-planning commissions have been created to study the problems and make recommendations for improvement. The following accomplishments may be suggestive:

Chicago gets rid of freight trucks in the congested district by means of a 63-mile freight subway.

The old Erie Canal has been abandoned and the city of Rochester has turned the bed into a subway for passengers and freight, and built an avenue over it.

San Francisco has relieved congestion in front of the Municipal Ferry where the electric cars from all parts of the city converge and circle, by digging a tunnel under the circle for through traffic. It is now building an enormous bridge (9000 feet long) to span



THE TWO-LEVEL WACKER DRIVE, CHICAGO.

the Golden Gate. Los Angeles has pedestrian tunnels under dangerous streets adjacent to school houses. New York has constructed an elevated auto highway up the west side.

In Chicago, between Wacker Street and Chicago River, the commission houses were removed and a wide drive built. This drive has two levels and communicates with the two-level Michigan Avenue bridge and approaches — in all, a dozen blocks of wide two-level street. Chicago has also built a long boulevard in Lake Michigan, paralleling the shore line.

Some cities have improved street intersections by rounding corners; others have built loops around business districts, and still others have eliminated railroad crossings by either tunneling or elevating the tracks or by tunneling or elevating the street.

Traffic Accidents. — It is estimated that annually there are street or highway accidents resulting in more than 30,000 deaths, nearly a million personal injuries, and over half a billion dollars of economic loss. Many cities are endeavoring to reduce these losses by enforcement of strict traffic regulations. But Barron Collier, deputy commissioner in charge of the bureau of public

safety of the New York Police, reduced fatalities to one half through an educational campaign. He said that accidents are caused by carelessness; therefore the work of his bureau was to make people think.

The first form of carelessness as revealed by his records is carelessness in crossing streets — “jaywalking.” This one cause alone accounted for practically fifty per cent of street accidents. Through newspapers, street car posters, posters in garages, billboards, pamphlets, lectures in schools and theaters, and millions of small cards handed out by boy scouts, Mr. Collier persuaded people to cross streets at the right places and in the right manner.

To assist him in reaching the public consciousness he created a new character, “Auntie J. Walker,” a smiling old lady in uniform, armed with a club and a benevolent smile which would



A PROPOSED SOLUTION FOR A CONGESTED DISTRICT.



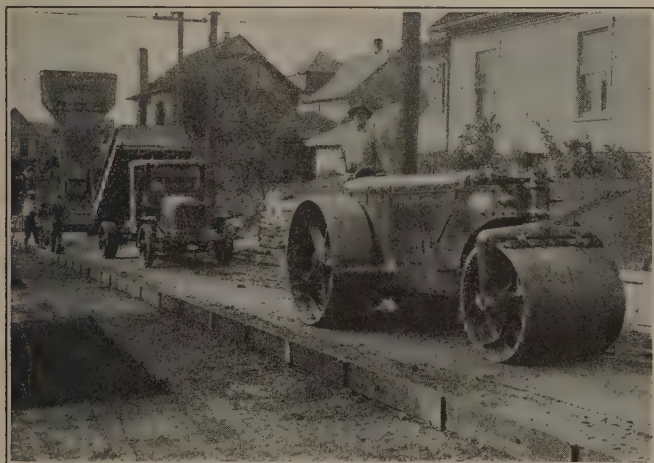
These tubes are fifteen feet apart under the river. One is for New-Jersey-bound traffic and the other for New-York-bound. They cost about \$46,000,000.

The roadway in these tunnels is twenty feet wide, and there is a three-foot sidewalk. Fresh air is supplied from beneath while overhead the gases are sucked up through slots. See cross-section in upper right-hand corner.

Popular Science Monthly

STEEL HIGHWAYS UNDER THE HUDSON.

attract attention anywhere. Aunt J. Walker would advise you to "Cross streets at crossings, not in the middle of the block. Go straight across, not diagonally. Look both ways." Mr. Collier also organized an enormous parade with nearly a hundred floats, each telling a safety story.



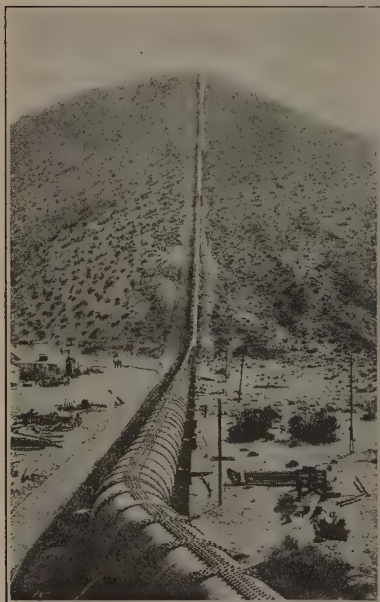
A STAGE IN STREET PAVING.

Street Paving. — In the material development of a city the question of street paving is of first importance. The cost and desirability of pavements vary with proximity to materials and climate, but the following table applies to most places.

ECONOMY IN CONSTRUCTION ¹	ECONOMY IN REPAIR	DURABILITY	CLEANLI- NESS	NOISE- LESSNESS	SAFETY
1st Concrete	Granite	Granite	Asphalt	Wood	Granite
2d Asphalt	Brick	Concrete	Concrete	Asphalt	Concrete
3d Brick	Wood	Wood	Brick	Concrete	Brick
4th Wood	Asphalt	Brick	Wood	Brick	Wood
5th Granite	Concrete	Asphalt	Granite	Granite	Asphalt

¹ Costs of construction are published at intervals in *Public Works*.

Water Systems. — Most of the larger cities own their water systems, and the most interesting is that of Los Angeles. This city brings its water a distance of 250 miles by gravity through concrete and steel conduits and pipes. In constructing this



THE WATER SUPPLY OF LOS ANGELES
CROSSING MOUNTAIN AND DESERT.

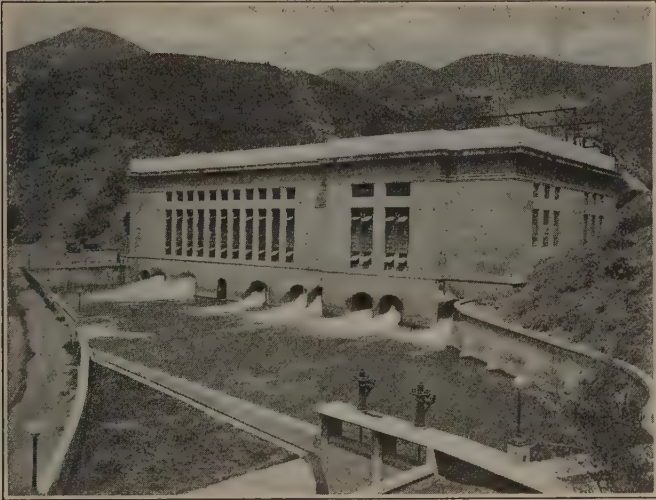
system it was necessary to dig 54 miles through the mountains and to cross 150 miles of desert. The gravity of the water supplies 120,000 horse power of electrical energy through five power plants, and in addition to supplying water for the city, reclaims nearly 150 square miles of arid land in and near the city.

When this system was constructed (1907-1913) at a cost of about \$25,000,000, the project required considerable faith on the part of the 200,000 people of the city. But the water made a garden of the arid San Fernando Valley, now inside of the city limits,

and last year it yielded products of a value equal to the cost of the entire water system. This ample supply of water controlled by Los Angeles forced most of the surrounding suburbs to become a part of the city. Hence the water has made possible the growth of the city from 200,000 to more than 1,200,000 population.

In Los Angeles there is now an auto for every three people. This unexpected expansion in transportation has enabled the

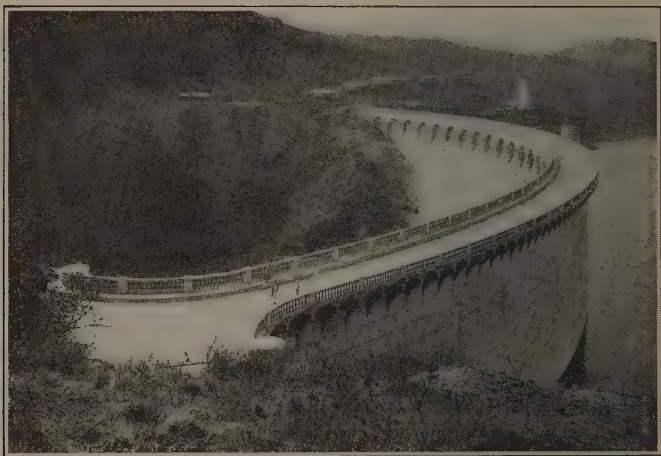
population to spread over a wide area. This necessitates an enormous quantity of water to maintain green lawns and grow shrubbery and shade trees in such a dry climate. It is estimated that it requires about 125 gallons of water per day for a tree — as much as the average per capita consumption.



LOS ANGELES POWER PLANT No. 1.

To keep the water supply ahead of the population, the city has built a series of dams at the mouths of the great canyon basins along the way. In these, water is stored during the wet season and allowed to pass through the power plants uniformly. If a break occurs along the pipe line, no waste results. The water is stored in the reservoir just above, and the lower reservoirs keep the power plants running and supply the city. One reservoir, completed in 1925, is about 300 feet in height, and another beautiful one completed the same year overhangs the very edge of Hollywood. Therefore, there is a canyon full of water right at the edge of the city which will take care of any emergency.

Los Angeles is still looking ahead. It, along with other nearby cities, has voted to bring water nearly 300 miles from the Colorado River. Here it will tap another great supply of water and have it flowing into the city by the time its population has overtaken its present supply.



MULHOLLAND DAM WHICH CREATES HOLLYWOOD LAKE.

Sewage Disposal. — Many cities still empty their sewage into nearby streams, but they are rapidly purifying it before it is disposed of. Baltimore and New Orleans were among the first cities to have very modern disposal systems. The Baltimore system consists of a series of settlement tanks. The water is siphoned from one tank to another, then flows through a revolving screen, is sprayed into the air by a series of thousands of small fountains, and falls upon beds of stone and sand through which it is filtered. It flows into Chesapeake Bay as pure as the water in the city reservoirs. As the water falls from the filtration beds into the bay, it is used to generate electricity by which the disposal plant is operated. Pasadena, being in a dry climate, uses its filtered and treated sewage to water a city farm

containing an orange grove, an English walnut orchard, and fields of alfalfa, grain, and hay.

Wharves. — New Orleans, gateway to the Panama Canal, owns practically all of its water front, and the State of California has long been developing the water front of San Francisco. Greater New York now owns 349 of its 577 miles of water front. Since the World War, New York City has increased its city-owned wharfage available for transatlantic steamers by 26,000 lineal feet — about 5 miles. This extension was made on Staten Island, and it is planned to connect this island with Brooklyn by a freight and passenger tunnel under the Narrows. During the year 1917 the Port of New York, for lack of facilities, made a gain of only five per cent in its export trade, while Philadelphia increased over fifty per cent, Baltimore thirty per cent, and Boston twenty-five per cent. Therefore, the City of New York, to insure its commercial primacy, made this expansion in wharfage.

Los Angeles, whose center is 21 miles from the coast, has a water frontage of 40 miles, a large part of which is improved. This city also owns a 48-mile belt line railway, which prevents any railroad company from monopolizing the wharves.

The Lake cities own very little of their wharfage; and though the United States has spent more than \$20,000,000 improving and maintaining a 30-foot channel for the harbor of Galveston, the wharves are owned almost entirely by private persons.

The states of Australia own the land 66 feet back from their waterways; hence private persons cannot monopolize the water front as in the United States.

Recreational and Cultural Progress. — Many cities are making splendid progress along recreational and cultural lines. The report of the Berkeley, California, Chamber of Commerce, January, 1925, makes the following appeal to its members: "Berkeley to-day is growing fast enough. Let us bend our energies to supply schools and playgrounds, parks and boulevards, enlarge our library, start a civic center, maintain our

symphony orchestra, start an art gallery and a museum of natural history, and, indeed, provide those things which will make us stand out in the eyes of the world as a really enlightened and superior community. The right kind of people will want to live in such a place and will come here automatically, just as fast as we can make provision for them."



CHILDREN'S BAND, ASHLAND, WISCONSIN.

The city of Ashland, Wisconsin, with less than 11,000 population, prides itself on employing a City Superintendent of Music. He has under him an adult band, a drum corps, a symphony orchestra, a high school band, a girls' band, grade school bands, and a band for boys and girls with about a hundred members.

As a means of providing a healthy and safe recreation and entertainment for children, Pittsburgh operates three merry-go-rounds in its municipal parks. These are operated daily from May until October, free of charge.

The New York City Radio Broadcasting Station enables the public officials to tell the people what their departments are doing. For instance, summaries of the proceedings of the city boards are broadcast the evening of the meeting. In addition,

entertaining and instructive programs are rendered through this municipal station.

Health Protection. — Most cities have a health board to look after the general health conditions of the city. School children are inspected in nearly all American cities, and in many, free treatment is given to the eyes and teeth. Free medical dispensaries are commonly maintained to supply the needs of the poor.

In 1906 a group of 24 of our largest American cities had a typhoid fever death rate of 35 to a 100,000. Now the rate for these same cities is 3 per 100,000 — less than in the rural communities around them. This reduced death rate is due to protection of water supplies, pasteurization of milk, supervision of food markets and restaurants, supervision of nurturing and shipment of shell-fish, and the increased use of anti-typhoid inoculation.

Radio as a Police Weapon. — In Detroit swift police cars carry two or four police and such aids as a machine gun and tear bombs; and they are equipped with receiving sets. If some one phones police headquarters of crime or attempted crime, the cars cruising in that part of the city reach the scene in a few minutes. If some one observes the number of the car used by bandits, the fact is broadcast to police cars throughout the city. The progress of a fleeing car may also be broadcast to police cars from police headquarters.

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The American City. Monthly.

QUESTIONS ON THE TEXT

1. What good features has the Washington City plan? Radburn, N. J.?

2. How was the New York metropolitan problem handled? The Boston problem?

3. How was the use of land limited previous to zoning laws?

4. What are the purposes of zoning cities?

5. Explain how zoning aids health, morals, safety, and welfare.

6. What is meant by a zoning Board of Adjustment?

7. Does zoning apply to past developments, future, or both?

8. What is "excess condemnation," and to what extent is it legal in the United States? Should it be legal?

9. May a city forbid billboards on private property? May it discourage them?

10. What is a public utility corporation? Are these corporations usually regulated by a city commission or a State commission? Why?

11. Give suggestions for remedying traffic congestion.

12. How many traffic accidents occur in the United States? How might the number be reduced?

13. Explain the Los Angeles water system.

14. Should cities own the docks? Name some cities that do.

15. Describe the Baltimore sewage disposal system.

16. What induces people to come to a city?

17. How has the typhoid fever death rate been reduced?

18. How are Detroit police equipped to combat bandits?

QUESTIONS FOR DISCUSSION

1. If you were zoning your city, where would you permit residences only? Apartment houses? Schools? Churches? Hospitals? Retail stores? Garages? Filling stations? Factories? Stockyards? Moving pictures? Pool halls? Dancing halls?

2. One half of a block is zoned for residences only; the other half facing another street permits garages. The latter street is widened and cuts off so large a portion of the front of the garage that the owner cannot make it pay. He asks to extend the garage from the rear a

hundred feet into the half of the block in which garages are forbidden. The residents protest; one resident claiming that the sale of his property at a nice profit would be called off if the garage is permitted to extend. If you were on the board of adjustment, how would you vote?

3. A district is zoned against churches. The board of adjustment is petitioned by a congregation to permit the erection of a beautiful structure on a full half block — 150 feet from the nearest residence. How should the board vote?

4. Do you favor private ownership of electric power? City ownership? County ownership? State ownership? National ownership?

5. Would you favor National ownership of power sites and dams, but private distribution? City distribution? (See Hoover Dam, page 20.)

6. Does your city own its water system? Gas system? Street railways? Jitney bus lines? If not, should it?

7. Zurich, Switzerland, built houses on the four sides of large city blocks with playgrounds in the centers of the blocks. These houses are rented only to families with children. Do you think the courts should permit American cities to do this?

8. Buenos Aires built 10,000 homes for workingmen. Do you think your city should follow this example if the State law permits?

9. England authorizes its cities to lend money to home builders, to the extent of 90 per cent of the cost, at the same rate that the city can borrow money — about 4 per cent per annum. The Labor Party of England favors government ownership of workingmen's homes. Do you favor either of these systems or the American way of financing homes through building and loan associations?

10. Mayor Walker of New York City proposes to condemn slum areas to provide building sites for model tenements. He would lease the sites to builders for 99 years under a limited dividend plan. The State Constitution and a statute authorize the condemnation of abutting property when street improvements, etc., are made. Thus under this right of eminent domain the city can secure title to the property at a fair price, and capital for the project should be attracted by the 1920 ordinance which exempts new tenements from taxation for 20 years. Why would you favor or oppose having your State extend this excess condemnation privilege to your city?

11. The University of Illinois has a Professor of Civic Designing. Is there any plan for the future development of your city? Draw a map of your city as it should be, showing where a town hall, library, high school, fire engine house, post office, courthouse if a county seat,

ball grounds, tennis courts, golf courses, airport, hospital, etc., should be.

12. Do billboards add to or subtract from the value of property in a community?

13. Do billboards usually advertise new inventions with which the people should become acquainted or luxuries of doubtful value to a community?

14. Would you encourage or discourage billboards? How?

15. Automobiles have created a new park problem. The city parks are no longer sufficient for city people. Thirty-five States have parks outside of cities, or forests under some name, to which city dwellers have access. New York State has 62 such parks. One of them, the Adirondack, contains 1,700,000 acres, and the Palisades Interstate Park of 35,000 acres is visited by more than 10,000,000 people annually. Should these parks be supported by the nearest cities, by the State, or by the National government?

16. Chicago has pointed the way for relieving automobile-choked streets by utilizing the interiors of high buildings for garages. In this new type of garage motor cars are automatically stored in record time, and as briskly roll forth at the touch of a button.

From forty seconds to two minutes is delivery time in these garages. The owner drives his car upon a loading platform before one of the elevators. An attendant takes a key from a master board, numbered to correspond with a vacant stall. The withdrawal of the key makes electrical connections which set in motion a sliding platform above, and the vacant stall comes to rest directly in front of the elevator shaft.

Meantime the elevator operator punches a button which causes the loading platform to tilt, and the car slides into the elevator.

The operator dials a number and the elevator rises to the floor assigned, where the door opens automatically. The operator presses a button, and the platform in the elevator tilts, letting the car slide into its stall. Bumpers engage the tires and hold the car in place until the owner returns for it. A somewhat similar process returns the car. What is your city or the city nearest to you doing to relieve traffic congestion? What do you think it should do?

CHAPTER XXV

SUFFRAGE

Suffrage and Citizenship Distinguished. — The word *suffrage* comes from the Latin word *suffragium*, and means *a vote*. Suffrage, then, is simply the privilege of voting at elections. *Citizenship* means *membership* in a State. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."¹ Infants born in the United States are citizens and are entitled to the privileges of citizens at home and abroad, but they cannot vote.

Suffrage Determined by Each State. — So long as a State maintains a republican form of government² it may determine what persons are to enjoy the political privilege of voting at both its own and national elections, with two exceptions: (1) that the same persons must be allowed to vote for United States senators and representatives that vote for members of the more numerous branch of the State legislature, and (2) that no person may be deprived of suffrage because of race, color, previous condition of servitude, or sex.³

¹ United States Constitution, Amendment XIV.

² A republican form of government is a representative government, or one in which the people elect their lawmakers and other public officers directly or indirectly.

³ The fourteenth amendment to the Constitution of the United States (Sec. 2) provides that any State which denies male citizens twenty-one years of age the privilege of voting, except for crime, shall have its representation in Congress reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. This provision has never been enforced, but after each decennial census when a reapportionment of representatives is being made, some congressman calls attention to the provision.

The States commonly permit the same voters to participate in all elections. To-day there are three restrictions on suffrage, or the right to vote, which apply to normal persons in every State and two additional ones in some States.

(1) *Age*. — In no State may a person vote who is less than twenty-one years of age.

(2) *Citizenship*. — In no State may a person vote who is not a citizen of the United States. (States could allow aliens to vote if they chose to do so.)

(3) *Residence*. — In no State may a person vote who has not resided in the State a period prescribed by law.

(4) *Education*. — In nearly one half of the States a person may not vote who cannot read or write.

(5) *Taxation*. — In a few of the States a person may not vote who has not paid his poll tax.

Such abnormal persons as idiots or insane, paupers supported at public expense, and those who have committed certain crimes are, in nearly all states, denied the right to vote.

Suffrage Restrictions as to Age. — In no one of the forty-eight States may a person vote who is less than twenty-one years of age. Twenty-one years of age has no special significance. We have simply followed the English law which prescribed this age. In ancient Sparta the age was thirty, while in Athens it was only sixteen. In Russia to-day the age is eighteen, in Germany it is twenty, and in Belgium it is twenty-five.

The age prescribed in the American States is no doubt as satisfactory as that prescribed by any of the other countries, but it is merely a rough-and-ready test. Some boys are more mature mentally at eighteen than others ever become. Maybe examinations will be given to all applicants for the privilege of suffrage at some future time.

Suffrage Restrictions as to Citizenship. — Suffrage is now restricted to citizens of the United States in all the States. Many States used to allow aliens to vote in local, State, and National elections as soon as they declared their intention of

becoming citizens of the United States by taking out their first naturalization papers.

Suffrage Restriction as to Residence. — When a citizen of the United States moves from one State to another, he is required to reside in the latter State for a period prescribed by the law of that State, varying from three months in Maine to two years in some of the Southern States,¹ before he can vote there, though he is usually permitted to vote in the State from which he has moved, either by law or practice, until he has qualified in the State to which he has moved. If a citizen moves from one part of his State to another, he is, in most States, required to reside there for a brief period before he can vote.

Suffrage Restrictions as to Sex Removed. — Until the nineteenth amendment to the Constitution of the United States was ratified, States were allowed to grant suffrage to women or to withhold it.

The Continental Congress left the suffrage to be dealt with by the States in their constitutions, and New Jersey was the only one which conferred it on the women, its constitution giving the franchise to "*all* inhabitants worth \$250." In 1790 a revision of the election law used the words "he or she," thus emphasizing the inclusion of women in the electorate. Enough women voted to gain the enmity of politicians, and in 1807 the legislature passed an arbitrary act limiting the suffrage to "white male citizens."

There seems to have been no further recognition of the principle of woman suffrage by any State until 1838, when Kentucky gave widowed mothers in country districts a vote for

¹ In Idaho, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, and Oregon a residence of six months is required; in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, one year; and in Alabama, Louisiana, Mississippi, Rhode Island, and South Carolina, two years.

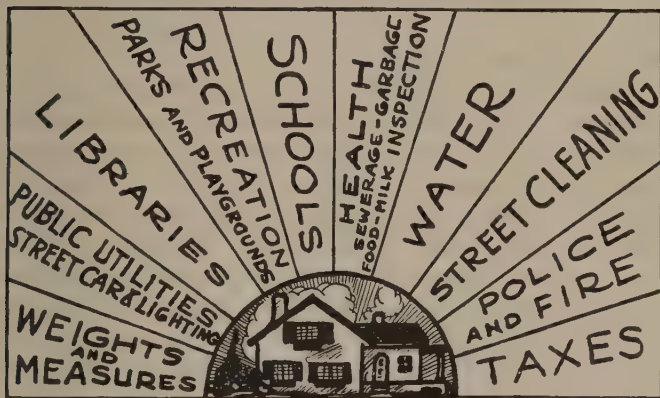
school trustees. In 1861 Kansas came into the Union with a constitution providing school suffrage for women.

"No further advance was made until 1869, when the first legislative council was in session after the organization of Wyoming as a territory. Mrs. Esther Morris, who with her husband had gone out from New York as a pioneer, appealed to the president of the Council, Col. William H. Bright, for a bill enfranchising women. She was sustained by his wife, and he succeeded in having the bill passed. The Council was Democratic, and it hoped to embarrass the Republican Governor, John A. Campbell, whom it expected to veto the bill. On the contrary he signed it; and when two years later the Council repealed it, he vetoed the repeal. The Council were unable to pass it over his veto and no effort to abolish woman suffrage was ever again made in Wyoming."

"In 1889 a convention composed entirely of men met to form a Constitution for Statehood, and after twenty years' experience they adopted unanimously as its first clause, 'equal political rights for all male and female citizens.' The Constitution was ratified by more than a three-fourths majority of the people and sent to Congress. That body, always hostile to the enfranchisement of women, fought in the House for three days to have this clause eliminated, and the Territorial Delegate telegraphed to Wyoming that it looked as if this would have to be done. The Legislature, which was in session, wired back: 'We will remain out of the Union a hundred years rather than come in without woman suffrage.' The same struggle took place in the United States Senate, and pages of the *Congressional Record* were filled with awful Senatorial prophecies as to what would happen to the country if Wyoming should come into the Union with women voters. After days of oratory they were obliged to face the calamity, and President Harrison signed the bill admitting the new State in June, 1890. Thus Wyoming became the first commonwealth in history to grant to women the same rights in the government that men possessed."

When the nineteenth amendment extended suffrage to all the States, full suffrage was already enjoyed by the women of fifteen States, primary suffrage by two States in which nomination was practically equivalent to election, and the right to vote for presidential electors by twelve States other than the fifteen which granted full suffrage.

Arguments in Favor of Woman Suffrage. — The following arguments are advanced in favor of woman suffrage.



WHY THE HOUSEWIFE SHOULD VOTE.

(1) *Women need the ballot because of new industrial conditions.* The discovery of steam power and electricity and the invention of machinery have shifted the production of most articles of food and clothing from the home to the factory; hence women are forced to work in factories, stores, and offices. Woman's new experiences prepare her to use the ballot, because she sees whether shops are unsanitary, whether occupations are dangerous, or whether foods are adulterated. Those who suffer from evils should have the power of the ballot as a means of remedy.

(2) *Suffrage promotes patriotism.* In Latin America where few vote, a bloody revolution is necessary to remove officials,

but in the United States, where suffrage is extensive, we may have a peaceful revolution at every election.

(3) *When women are given the ballot, they take more interest in civic duties than in idle pastimes.* The best way to make people feel their responsibilities to the state is to assign them duties. We learn to do by doing.

(4) *More girls than boys are being educated in the high schools and about the same number of girls as boys are in the colleges:*

(5) *Persons who train citizens should understand the political duties of citizens.* Most of our children are taught by women — whether at home or in school.

(6) *Both by nature and of necessity women have better moral habits than men* and their votes therefore assist moral legislation.

(7) *The most dignified way for women to influence legislation is by the secret ballot.* Without equal suffrage a woman who works for legislative reforms must go to the legislative halls and impress her views upon the legislators by “lobbying.”

Every Right Implies a Duty. — Some women did not desire the right of suffrage, but inasmuch as suffrage has become the right of both good and bad, it becomes the duty of a good woman to cancel the vote of a bad woman or of an intelligent woman to cancel the vote of an ignorant woman.

Every woman owes to her country her assistance in making its laws as perfect as possible. To aid in the fight for good laws, the ballot is given her. For an intelligent woman to refuse to use her ballot is as sinful as the Biblical character who buried his talent.)

Woman has always had much influence, but now she has influence plus power. Will any self-respecting woman fail to use this power to keep the nation's record untarnished and to make its future more glorious?

Will any mother vote for legislators who permit her children to work unnecessarily long hours? Will she vote for health officers who are incapable of protecting the health of the home? Will she vote for police officers who put dollars above moral

considerations? Or will she elect school officials who educate clever rogues? Will she help to elect a police judge who will not enforce the law against those who are corrupting the morals of the youth?

In short, will any true mother fail to appreciate the saying of Frances Willard, "We need the mother heart in legislation."

Educational Restrictions on Suffrage. — Some sort of educational test is now required in nearly one half of the States.¹ In some it is merely ability to read; in others, to read and write; and in still others, to read, write, and understand a passage from the Constitution. The first educational test was adopted by Connecticut in 1855 during the "Know Nothing" agitation against foreign immigrants. Massachusetts followed in 1857, Wyoming in 1889, and Maine in 1891. Since that date most of the Southern States have adopted educational tests, and some include understanding clauses.² The "grandfather clauses" which were inserted in the constitutions of most of the Southern States have been abolished.³

¹ The following States have the educational test in some form: Connecticut (1855 and 1897), Massachusetts (1857), Wyoming (1889), Mississippi (1890), Maine (1891), California (1894), South Carolina (1895), Washington (1896), Delaware (1897), Louisiana (1898), Alabama (1901), Virginia (1902), North Carolina (1902), New Hampshire (1903), Georgia (1908), Oklahoma (1910), Arizona (1913), North Dakota (1896), New York (1922), and Oregon (1924).

² The Virginia educational test is as follows: Every person, unless physically unable, "makes application to register in his own handwriting, without aid, suggestions, or memorandum, in the presence of the registration officers, stating thereon his name, age, date and place of birth, residence, and occupation at the time and for one year next preceding, and whether he has previously voted, and, if so, the State, county, and precinct in which he voted last; and . . . answers on oath any and all questions affecting his qualifications as an elector, submitted to him by the officers of registration, which questions and his answers thereto, shall be reduced to writing, certified by the said officers, and preserved as a part of their official records." This registration is permanent so long as the person registered remains in the same precinct.

³ These clauses provided that persons who voted before the Civil War and their male descendants may vote without taking the educational tests. These exceptions, however, were all abolished by 1915 when the last, that of Oklahoma, was declared to be in conflict with Amendment XV of the Constitution of the United States.

New York State Regents Literacy Test. — In 1921 an amendment was added to the New York State Constitution which reads: "After January 1, 1922, no person shall become entitled to vote . . . unless such person is . . . able, except for physical disability, to read and write English; and suitable laws shall be passed by the legislature to enforce this provision."

In 1922 the legislature left the administration of this literacy test to the election officials; and in New York, as in other States, the election officials did not administer it impartially. In some districts the law was not enforced at all.

In 1923 the legislature gave the power of determining literacy for voting to the State Board of Regents (State board of education); and since then the law has been administered with unusual success.

Under the Law of 1923 a new voter might present to the registration officials as evidence of literacy either a diploma showing that he has completed the eighth grade or its equivalent, or he might present a certificate of literacy issued under the rules of the Board of Regents. The Board of Regents has examinations prepared by educational psychologists and given through school superintendents. The following examination is typical:

NEW YORK STATE REGENTS LITERACY TEST

Read this and then write the answers. Read it as many times as you need to.

"Mary had been waiting for the Fourth of July. It was on this day that her father and mother were going to take her to the park. Because it was a holiday her father did not have to work. Mary had learned in school why we celebrate the Fourth of July. The Declaration of Independence was signed on July 4, 1776. It was written by Thomas Jefferson. It is called the Declaration of Independence because it declared the thirteen American colonies free from England. The Fourth of July is celebrated as a national holiday by all of the forty-eight states."

(The answers to the following questions are to be taken from the above paragraph.)

1. For what day had Mary been waiting?
2. Where were her father and mother going to take her?
3. Why did Mary's father not have to work?
4. Where had Mary learned why we celebrate the Fourth of July?
5. When was the Declaration of Independence signed?
6. Who wrote the Declaration of Independence?
7. From what country did the Declaration of Independence declare the thirteen American colonies free?
8. How many states celebrate the Fourth of July as a national holiday?

During the first six years about 500,000 took these tests, and about 15 per cent of them failed the first time. The requirement of reading and writing as a prerequisite to voting has greatly stimulated interest in night schools.

Tax Restrictions on Suffrage. — In a number of Southern States suffrage is restricted to those who have paid a small annual poll tax. This tax varies from one to two dollars.

For instance, in Virginia one cannot vote unless he has personally paid his \$1.50 poll tax six months previous to the regular election. Moreover, this tax must be paid for the past three years. That is, if one fails to pay this tax for three years, he must pay \$4.50 six months before the regular election. The voter is required to pay this tax six months before the election so that the candidates for office will not have been nominated. Thus the politicians are not so likely to give voters money with which to pay this tax. The payment of this tax as a prerequisite to voting is strictly enforced.

A poll tax is not very just because the poor man must pay as much as the millionaire. In the South its purpose was to discourage from voting the Negroes who had passed the educational test. In practice it keeps a great many whites from voting, some worthy and many worthless ones.

BIBLIOGRAPHY

PORTER, K. H. History of Suffrage in the United States. 1918.
See bibliography at end of Chapter XXVI.

QUESTIONS ON THE TEXT

1. What is meant by the word *suffrage*? By the word *citizenship*?
2. Is suffrage determined by the United States or by the States?
3. May a Chinese woman born in the United States vote for presidential electors? (Amendment XIV, Sec. 1; Amendment XV.)
4. What three restrictions does every State place upon suffrage? What additional ones do some States impose?
5. What abnormal persons are excluded from suffrage in nearly all States?
6. Has the requirement that an American voter must be 21 years of age any special significance?
7. Do any States permit aliens to vote? Could they?
8. How many years must one reside in the State in which you live before he may vote?
9. Explain the sentence, Every right implies a duty; and tell why every mother should vote.
10. What kind of educational tests do a number of States have?
11. Explain the New York test; the Virginia test.
12. What tax restrictions do some States have on suffrage?

QUESTIONS FOR DISCUSSION

1. Should voting be viewed as a right, a privilege, or a duty?
2. What are the qualifications for voting in your State?
3. Does your State have an absent voters' law? If so, make a summary of its provisions.
4. Senator Capper suggests a penalty of 1 per cent of one's gross income for not voting. The *St. Louis Star* says that a valuable vote must be founded on a desire for decent government, created in the home, the school, and the church. Are these suggestions valuable? Why?
5. Do you favor universal suffrage? H. G. Wells says: "Before he can vote, he must hear the evidence. Before he can decide he must know. . . . Votes in themselves are useless things. Men had votes in Italy in the time of the Gracchi. Their votes did not help them. Until a man has an education, a vote is a useless and dangerous thing for him to possess." Should a legislator follow a universal suffrage "public opinion referendum" if contrary to his judgment?
6. Does public opinion grow out of reason, or is it manufactured for us by some hard-working or heavy-spending leaders? Do you do your own thinking or are you led by the papers you read and the people with whom you associate? By the use of large sums of money can you employ high-powered organizers and writers to prepare ready-

made arguments for the press and thus make the people believe that they themselves have changed their opinion?

7. The New York Board of Regents examinations can be passed by fifth-grade students. If you were preparing them, would you make them easier or more difficult?

8. In a New England college town a group of college students attended a town meeting for fun and voted to build a town hall six feet wide and two hundred feet long. Because of this type of levity by young people the State constitutions have provisions like the following from the New York Constitution: "For the purpose of registering and voting no person shall be deemed to have gained or lost residence . . . while a student of any seminary of learning." If the student's family lives in the college town, or if he has no other home to which he intends to return, he may vote. In Latin America students play an important part in national politics. Do you think the practice in the United States or in Latin America is the better?

9. In a democracy is education a luxury, or is it a necessity?

10. Should our schools turn out citizens with a general education or a technical education? Should they be men of culture, of affairs, or cultured men of affairs? If a man is trained in a single trade, can he know much about complex society and help to manage a republic?

11. In the eighth assembly district of New York City it was once discovered that only 42 out of 13,662 families owned their own homes, and of these 42 homes all but 14 were mortgaged. Is this population likely to be conservative or radical in voting? Does this mean that all but the 14 families should be disfranchised?

12. It is the ideal of every good citizen to leave the world a little better than he found it. Intelligent voting is one way to attain this ideal. Are you preparing to be a good citizen? How?

CHAPTER XXVI

NOMINATIONS AND ELECTIONS

Registration. — In order to determine whether all persons who claim the right to vote are really entitled to vote, and to identify individuals in communities where residents are not personally known to one another, nearly all the States require each voter to “register” his name, address, age, length of residence, and other facts pertaining to his qualifications as a voter with a registration officer or board provided for each voting-place. In some States registration is required only in cities.

In rural districts where the voters are well acquainted with one another one registration is sufficient so long as the voter remains in the same voting district, but two thirds of the States require voters to register each year that an election is held.

For instance, in New York the voter must sign his name in the registration book and on election day he must again sign his name so that the election officers may compare the two signatures. Where there is annual registration the party “machines” see to it that their regular party men register, but independent voters and many traveling men often fail to register and hence lose their vote. However, for cities, this practice involves less evil than would result from permanent registration, which is necessarily very inaccurate.

Political Parties. — From the beginning of our governments men have held different opinions on matters of government; so they have formed themselves into political groups, known as political parties, for the purpose of electing officers who will carry on the governments in accordance with their views.

The national party organization performs a useful purpose by organizing the people who hold similar views to support candidates who promise to carry out these views if elected. But the county and State committees of the national parties also work for the election of members of their parties to the county and State offices, and this practice is often harmful.

It commonly results in choosing State and local officers on the same day that the President and congressmen are elected, and in this way the party enthusiasm sweeps into office local candidates of the party which wins in the national election whether they are the best men or not. }

By means of clubs, advertisements, and radio speakers who commonly play upon the prejudices and emotions of the people, politicians try to induce unthinking persons to work for a Democrat "right or wrong," or a Republican "right or wrong." It makes little difference whether a member of a county board of commissioners is a Democrat or a Republican, but it does matter whether the county commissioner believes in good roads and good schools and is a man of high ideals.

Nominating Methods. — Very soon after the establishment of the United States it became customary for political parties to nominate a candidate for their support at the election. In the United States there are at present five different methods of nominating candidates for elective offices.

- (1) Self-announcement.
- (2) Caucus or primary.
- (3) Delegate convention.
- (4) Direct primary election.
- (5) Petition.

Self-announcement, or self-nomination, is very rare, and indicates either little competition within the party or a dissatisfied candidate whom the party has refused to indorse as its regular candidate. Some Southern and Western States provide for printing the names of self-announced candidates upon the ballots.

"Caucus"¹ is the New England name for a local mass-meeting of party voters, and "primary"² is the name applied to the same in the Middle or Western States. The caucus, or primary, selects candidates for town, ward, or precinct offices, and members of the town, ward, or precinct party committee. It also selects delegates to county and other nominating conventions.

The caucus has generally proved unsatisfactory because it is easily manipulated by machine politicians, especially in cities, and it is there that half the American population live. The unregulated caucus has often been called on short notice to meet in an inadequate hall at an inconvenient time, and then "packed" with foreigners or "repeaters" hired by the "ring." As this uninviting caucus frequently ended in a "free for all" it is not strange that good citizens have considered it not only useless, but even dangerous, to attend.

The delegate convention has been in common use since 1840 for selecting county, State, and National candidates. The delegate convention for a county or city is a meeting of delegates from the various election districts of the county or wards of the city. These are chosen by mass meetings, called caucuses or primaries, held in each district or ward.

The delegate convention for the State is a meeting of delegates from the counties and cities, commonly chosen at the county or city conventions. The National Convention has been described at some length in Chapter XVII. As the delegates have been selected directly or indirectly by caucuses, the evils of the caucus have also been the evils of the convention.³

¹ The term "caucus" used in this sense must not be confused with the legislative caucus, which is a secret meeting of legislators of a particular party to decide upon united action against the opposing party on the floor of the legislative hall.

² The term "primary" as here used must not be confused with the term "direct primary," or "direct primary elections," which is a recent substitution for the delegate convention.

³ By controlling the primary-caucuses the machine politicians had the following candidates selected as delegates for a Cook County convention which

For this reason conventions rapidly gave way to direct primary elections.

The direct primary election is conducted with many of the safeguards accompanying a regular election, such as registration, secret voting, and penalties against bribery. Each party prints upon its ballot, or has printed at public expense, the members of its party who desire to be party candidates at the regular election, and the person receiving the greatest number of the party votes is nominated.

Nomination by petition means that candidates are placed in nomination by petitions signed by a certain number of voters and filed with some specified officer. This entitles the candidate to have his name printed upon the official ballot. This method practically eliminates national politics from local elections and is well suited to cities, where national political parties should play no part.

The Direct Primary. — In forty-odd States the direct primary method is used to nominate local, county, and State officers, as well as United States representatives and senators. The direct primary systems generally have the following points in common:

- (1) Different parties hold primaries at the same time and place.
- (2) Australian secret ballot is used.
- (3) Ballots are printed at public expense.
- (4) Names are presented by petitions and are printed in alphabetical order.
- (5) Regular election officials preside and are paid from public funds.
- (6) Polls are open during specified hours.
- (7) Plurality vote nominates.

was held in Chicago in 1896: keepers of houses of ill fame, 2; ex-prize-fighters, 11; had been on trial for murder, 17; had served sentences in the penitentiary, 46; had been in jail, 84; no occupation, 71; political employees, 148; saloon keepers, 265. The total number of delegates was 723.

(8) Corrupt practices acts for elections apply to primaries.¹

(9) Members of party committees are selected at the primary.

(10) Party membership is determined (a) by an intention to support generally at the next election the nominees of such a party; or (b) by the party the voter supported at the last election; or (c) by answering any questions the party prescribes, as is done in parts of the South in order to keep Negroes from participating in Democratic primaries.

When party membership is determined by test *a*, *b*, or *c*, in number 10 above, the primary is called a "closed primary" because it is closed against any persons who will not announce their party preference. In most States primaries are closed, but they are objectionable because there the voters must make known their party preference, which thus defeats the principle of the secret ballot. It also works against independent voting.

The accompanying Republican primary ticket for Massachusetts was used for a "closed primary."

Wisconsin has the "open primary," which is open to all voters without registering their party preference. The voter is given a separate primary ballot for each party. He votes one

¹ In the famous Newberry case it was decided that the Federal Corrupt Practice Acts do not apply to State direct primaries, but State Corrupt Practice Acts may apply. (See page 412, note.)

An interesting case bearing upon a State's control over a direct primary was decided in 1927 by the United States Supreme Court (*Nixon vs. Herndon*). Texas forbade Negroes to vote in a Democratic primary which was established, supported, and regulated by the State. This provision of the statute was challenged in the United States Supreme Court, and the Court held the discrimination unconstitutional as being in conflict with the clause of the Fourteenth Amendment which guarantees equal protection of the laws.

But the Texas Legislature, which was in session when the decision was rendered, passed another primary law giving every political party in the State, through its State executive committee, the power to "prescribe the qualifications of its own members." Under this authority the Democratic State Executive Committee promptly debarred Negroes. The United States Supreme Court has not yet passed upon this last primary law.

and deposits the others in a box for unmarked ballots. The open primary is less objectionable than the closed, but it has one objection — it allows the leaders of the majority party, especially in large cities, to direct a number of their dishonest followers to vote the ballot of the opposite party and on it to support candidates for nomination who will be friendly to the majority's interests, thus robbing the minority party of its real leader.

The direct primary system has not proved a panacea for all the ills of the convention system, but it offers an opportunity to defeat a conspicuously unfit candidate or to nominate one conspicuously well fitted.

It is "an opportunity, not a cure"; it "puts it up to the voters."

No primary or election machinery takes the place of intelligence and public spirit, but the direct primary places the responsibility for good government upon the voter.

Arguments for the Direct Primary. — (1) It has given every party member an equal chance to help nominate candidates and thereby encourages loyalty to the government.

(2) It has given aspirants for office an opportunity to appeal to the voters unrestricted by party action.

TO VOTE FOR A PERSON MARK A CROSS [X]	
GOVERNOR Vote for ONE THOMAS E. ALLEN of 299 WASHINGTON ST. Boston JOHN D. BEVIN of 215 FLEET STREET Boston LEONARD B. COOK of 15 BROAD ST. Boston	
LIUTENANT GOVERNOR Vote for ONE WILLIAM STEPHEN YOUNGMAN of 111 WASHINGTON ST. Boston	
SECRETARY Vote for ONE FREDERIC W. COOK of 15 BROAD ST. Boston	
TREASURER Vote for ONE JAMES WILLIAM BEAN of 111 WASHINGTON ST. Boston THOMAS E. ALLEN of 299 WASHINGTON ST. Boston CHARLES LAWRENCE BOWEN of 111 WASHINGTON ST. Boston WILLIAM E. COOK of 15 BROAD ST. Boston THOMAS E. ALLEN of 299 WASHINGTON ST. Boston GEORGE B. WILLIAMS of 111 WASHINGTON ST. Boston JOHN M. WINTHROP of 111 WASHINGTON ST. Boston RUSSELL L. WOOD of 111 WASHINGTON ST. Boston	
AUDITOR Vote for ONE JOSEPH E. WILSON of 111 WASHINGTON ST. Boston LEONARD B. COOK of 15 BROAD ST. Boston	
ATTORNEY GENERAL Vote for ONE JOSEPH E. WILSON of 111 WASHINGTON ST. Boston	
SENATOR IN CONGRESS Vote for ONE WILLIAM E. COOK of 15 BROAD ST. Boston THOMAS E. ALLEN of 299 WASHINGTON ST. Boston ANDREW JOSEPH COLLIER of 111 WASHINGTON ST. Boston	
CONGRESSMAN - Fourth District Vote for ONE ROBERT L. LEE of 111 WASHINGTON ST. Boston	
COUNCILMAN - Third District Vote for ONE THOMAS E. ALLEN of 299 WASHINGTON ST. Boston JOHN D. BEVIN of 215 FLEET STREET Boston	
SENATOR - First District Vote for ONE GEORGE B. WILLIAMS of 111 WASHINGTON ST. Boston	
REPRESENTATIVES IN GENERAL COURT Vote for THREE ALBERT W. BULLOCK of 111 WASHINGTON ST. Boston ARTHUR A. HANSEN of 111 WASHINGTON ST. Boston ERNEST LEONARD of 111 WASHINGTON ST. Boston	
DISTRICT ATTORNEY - Fourth District Vote for ONE WARREN C. BISHOP of 111 WASHINGTON ST. Boston KENNETH C. DUNLAP of 111 WASHINGTON ST. Boston GEORGE STANLEY HANCOCK of 111 WASHINGTON ST. Boston	
REGISTER OF PROBATE AND INSOLVENCY Vote for ONE LEONARD B. COOK of 15 BROAD ST. Boston	
COUNTY COMMISSIONER - Middlesex Vote for ONE EDWIN B. BARLOW of 111 WASHINGTON ST. Boston JOHN ERNEST GUNDEL of 111 WASHINGTON ST. Boston	
ASSOCIATE COMMISSIONERS Vote for TWO DANIEL D. GORMAN of 111 WASHINGTON ST. Boston JOHN M. WINTHROP of 111 WASHINGTON ST. Boston WELVIN E. ROBERTS of 111 WASHINGTON ST. Boston	
COUNTY TREASURER - Middlesex Vote for ONE CHARLES E. HAYFIELD of 111 WASHINGTON ST. Boston	

MASSACHUSETTS REPUBLICAN DIRECT PRIMARY BALLOT, SEPTEMBER, 1930.

The part of the ballot containing party, State, and local committeemen is omitted.

(3) It has allowed a vigorous candidate to conduct his campaign without having to pool his energy and money with weaker candidates on a party slate,

(4) It has prevented corrupt politicians from selling the party to selfish or corrupt interests.

(5) It necessitates a candidate's coming into close contact with the people and results in his more faithfully carrying out their will.

(6) It stimulates interest in problems of government by more frequent participation,

(7) In a one-party State the voter has no effective participation except at the primary.

Arguments against the Direct Primary. — (1) It entails extra expense.

(2) It gives the city population an advantage over the rural population, because the former live closer to the voting places.

(3) It ignores the necessity for consultation and conference in the selection of candidates.

(4) It affords no suitable opportunity for the formulation of party platforms.

(5) It increases the opportunities of self-advertisers and demagogues.

(6) Frequently desirable candidates will not enter primary contests because of the greater effort and expense.

(7) It develops bitterness which weakens the party in the ensuing campaign.

Elections. — *When Held.* — Most States hold their elections for the selection of State officers at the same time that presidential electors and United States senators and representatives are chosen — Tuesday after the first Monday in November of even-numbered years. However, Virginia, Kentucky, and Mississippi hold State elections in November of odd-numbered years; and two States, New York and New Jersey, elect certain State officers annually.

A few States hold their elections earlier than November. City elections are commonly held earlier in the year. When State elections are held at a different time from the national elections, the voters pay more attention to State issues, and are not so likely to vote a straight Democratic or Republican ticket as they are during the excitement of a National campaign.

How Held. — For each voting district or precinct into which the county or city is divided, the county clerk, city clerk, board of election commissioners, or some designated officer provides a polling place, equipped with booths, a ballot-box, or voting machine, poll books, tickets, and in some States a flag. On

To vote for a Person, mark a Cross X in the Square at the right of the Party Name, or Political Designation. X		To vote for a Person, mark a Cross X in the Square at the right of the Party Name, or Political Designation. X		To vote for a Person, mark a Cross X in the Square at the right of the Party Name, or Political Designation. X	
GOVERNOR Vote for ONE JOHN W. BEECHER <input type="checkbox"/> Socialist Labor Party FRANK B. ALLEN <input type="checkbox"/> Republican HARRY J. CARTER <input type="checkbox"/> Communist Party JOSEPH G. ELLIOTT <input type="checkbox"/> Socialist ALFRED BAKER LEWIS <input type="checkbox"/> Socialist Party		SENATOR IN CONGRESS Vote for ONE WILLIAM M. BUTLER <input type="checkbox"/> Republican HAROLD A. COOLIDGE <input type="checkbox"/> Democratic OSCAR KIMBALL <input type="checkbox"/> Socialist Labor Party MAX LERER <input type="checkbox"/> Communist Party EUGENE J. McBRIDE <input type="checkbox"/> Socialist Party		DISTRICT ATTORNEY — National Union Vote for ONE WARREN L. BISHOP <input type="checkbox"/> Republican JOHN F. BALT <input type="checkbox"/> Democratic	
LIEUTENANT GOVERNOR Vote for ONE STRANG V. CLARRETT <input type="checkbox"/> Socialist HENRY G. CORBETT <input type="checkbox"/> Communist Party STEPHEN J. BURROUGHS <input type="checkbox"/> Socialist Labor Party EDWIN W. WILLIAMS <input type="checkbox"/> Socialist Party WILLIAM STERLING YOUNGMAN <input type="checkbox"/> Republican		CONGRESSMAN — Eight District Vote for ONE JOHN P. BRENNAN <input type="checkbox"/> Democratic FREDERICK W. DALLINGER <input type="checkbox"/> Republican		REGISTER OF PROBATE AND INSOLVENCY — National Union Vote for ONE JOHN J. BUTLER <input type="checkbox"/> Socialist LOUIS P. JORDAN <input type="checkbox"/> Republican	
SECRETARY Vote for ONE DANIEL T. BUSHINGTON <input type="checkbox"/> Socialist Labor Party FREDERICK W. BODD <input type="checkbox"/> Socialist ALBERT B. McBRIDE <input type="checkbox"/> Socialist Party JAMES W. DAWSON <input type="checkbox"/> Communist Party CHESTER J. O'BRIEN <input type="checkbox"/> Socialist		COUNCILLOR — Four District Vote for ONE JOHN H. CORCORAN <input type="checkbox"/> Democratic JOSEPH G. ELLIOTT <input type="checkbox"/> Republican		COUNTY COMMISSIONER — National Union Vote for ONE ERIC B. BARLOW <input type="checkbox"/> Republican ROBERT F. OCHOYAN <input type="checkbox"/> Democratic	
TREASURER Vote for ONE FRED JEFFERSON BURRILL <input type="checkbox"/> Socialist ERLA HOFFMAN <input type="checkbox"/> Communist Party CHARLES T. HUBBELL <input type="checkbox"/> Socialist WALTER S. MITCHELL <input type="checkbox"/> Socialist Party CHARLES B. GRAM <input type="checkbox"/> Socialist Labor Party		SENATOR — Four District District Vote for ONE CHARLES T. BALT <input type="checkbox"/> Democratic CHARLES G. WARDER <input type="checkbox"/> Republican		ASSOCIATE COMMISSIONERS .....Vote for TWO National Union E. PEABY JOHNSON <input type="checkbox"/> Socialist JOHN M. LEVITT <input type="checkbox"/> Republican JOHN J. MORTAU <input type="checkbox"/> Socialist MELVIN G. ROZAR <input type="checkbox"/> Republican	
AUDITOR Vote for ONE ALFRED B. COOK <input type="checkbox"/> Socialist HENRY FIELDMAN <input type="checkbox"/> Socialist Party FRANK J. HUBBELL <input type="checkbox"/> Socialist ALBERT OGDEN <input type="checkbox"/> Socialist Party FRED C. GILCHER <input type="checkbox"/> Socialist Labor Party		REPRESENTATIVES IN GENERAL COURT — Three District District Vote for TWO ALBERT B. BURMAN <input type="checkbox"/> Republican MICHAEL J. CAVANAGH <input type="checkbox"/> Democratic NELSON B. CROSBY <input type="checkbox"/> Socialist PAUL C. GRIFFIN <input type="checkbox"/> Socialist			
ATTORNEY GENERAL Vote for ONE WENDON L. BEARDS <input type="checkbox"/> Socialist Labor Party JOHN W. JARVIS <input type="checkbox"/> Communist Party JOHN WELBY BARNES <input type="checkbox"/> Socialist Party HAROLD W. BULLY <input type="checkbox"/> Socialist JOSEPH E. WARDER <input type="checkbox"/> Socialist					

MASSACHUSETTS BALLOT FOR THE REGULAR ELECTION, NOVEMBER, 1930.

The part of the ballot containing initiative and referenda propositions is omitted.

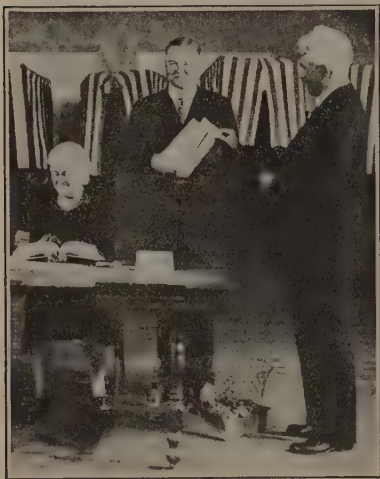
election day the polls are open during prescribed hours — commonly from 6 A.M. to 6 P.M., but sometimes longer.

Each polling place is in charge of judges of election, whose duty it is to pass upon voters' qualifications. The judges have clerks to assist them. They open and close the polls, count the ballots, and certify the results to the proper officials (*e.g.*, county

board of elections or county clerk). A "watcher" from each political party is permitted to be present at the voting place to challenge any person whom he does not believe to be qualified to vote, and to see that the votes are fairly counted.

Australian Method of Voting. — The Australians devised a secret method of voting, which found its way to the United States through England. In 1888 the Kentucky legislature adopted it for municipal elections in Louisville, and the following year Massachusetts adopted it for all elections.

The Australian method of voting is as follows: The voter enters a room in which no one is allowed except election officers,



PRESIDENT HOOVER VOTING.

"watchers," and perhaps a policeman. He gives his name, and if it is found on the registration book he is given a ballot, which he carries into a canvas booth about three feet square. After marking the ballot he folds it, comes from the booth, and gives it to a judge of election, who tears off the top of the ballot containing the number, and he or the voter deposits it in an election box made of wood, metal, or glass in the presence of the other.

The ballots have been printed at public expense, and no ballot may be taken from the voting place. In some States a "sample ballot," printed on colored paper, is mailed to each voter before the election day, but this, of course, cannot be used for voting.

Between 1888 and 1910 all but two States, Georgia and South Carolina, adopted this method of voting, though the details vary from State to State.

Some States use voting machines, which the voter manipulates by pulling a lever for each candidate or measure. The machines automatically count the votes, so the result is known as soon as the voting ends. The machines are expensive, the arrangement of the levers encourages the voting of a "straight ticket," and ignorant voters think they are difficult to operate.

Origin of Ballots in the States. — For many years our voting was *viva voce* (by living voice). The voter came to the polling place and announced publicly the names of the candidates for whom he voted. This method encouraged vote-buying and intimidation. When a vote was bought, "the goods were delivered" in the buyer's presence. A voter was often influenced to vote against his better judgment because he would get the ill will of an acquaintance if he voted against him, or of the community if he supported the unpopular candidate, or of his employer if he voted contrary to the employer's interest. The States gradually abandoned *viva voce* voting, but it continued in the South until after the Civil War.

Unofficial written ballots were at first substituted for the *viva voce* method, each voter preparing his own ballot. Then the candidates began to print their own ballots; and finally the political party had ballots printed — each party having ballots of a different color. Thus the new method was just as public as the old. A vote-buyer, friend, or employer could know how you voted from the color of your ballot or could see you deposit the ballot which he had prepared for you.




Ballots Now in Use. — While all but two of the States have followed the general feature of the Australian plan and have made elections secret, only fourteen now use the true Australian ballot, but the number is increasing. The Australian ballot places the names of the candidates of all parties for a given office in alphabetical order, giving each candidate's party affiliation after his name as shown in the ballot above.

In many States the Party Column ballot is still in use. On such a ballot all the names of the candidates of one party for

the various offices are arranged in a vertical column under the party's name, usually with a circle at the top in which the voter by placing a cross mark therein may vote for all of the candidates of that party — "a straight ticket." This arrangement works in the interest of a strongly organized corrupt party

because an ignorant voter can vote the ticket with almost as much ease as an intelligent one. It is gradually giving way to the Australian ballot, which requires a degree of intelligence and education to vote.

The Short Ballot Movement. — *The Usual American Ballot Is Too Long.* — The names of so many candidates appear on the ballot that it is impossible for the voter to know the qualifications of many of them. At the November election, 1914, the voters of Omaha, Nebraska, voted three tickets, one of which

 DEMOCRATIC PARTY.	 REPUBLICAN PARTY.	 NATIONAL PROGRESSIVE PARTY.
For Chief Judge of the Court of Appeals, WILLARD DARTLEY.	For Chief Judge of the Court of Appeals, WILLIAM E. WERWER.	For Chief Judge of the Court of Appeals, LEARNED HAND.
For Associate Judge of the Court of Appeals, ADAM J. ELKUS.	For Associate Judge of the Court of Appeals, FRANK H. HIRCOCK.	For Associate Judge of the Court of Appeals, SAMUEL SEABURY.
For Mayor, EDWARD E. McCALL.	For Mayor, JOHN FURROY MITCHELL.	For Mayor, JOHN FURROY MITCHELL.
For Comptroller, HERMAN A. METZ.	For Comptroller, WILLIAM A. FRENDEBERG.	For Comptroller, WILLIAM A. FRENDEBERG.
For President of the Board of Aldermen, JOSEPH A. GOLDEN.	For President of the Board of Aldermen, GEORGE MCANENY.	For President of the Board of Aldermen, GEORGE MCANENY.
For County Judge, EDWARD A. RICHARDS.	For County Judge, LEWIS L. FARWELL.	For Co. J. Judge, LEWIS L. FARWELL.
JESSE FULLER, JR.	NORMAN S. DIKE.	JESSE FULLER, JR.
For Surgeon, HERBERT T. KETCHUM.	For Surgeon, HERBERT T. KETCHUM.	For Surgeon, HERBERT T. KETCHUM.
For Sheriff, FRED P. FARLEY.	For Sheriff, LEWIS M. SPABY.	For Sheriff, GUSTAVE W. THOMPSON.
For County Clerk, WALTER L. DUNACK.	For County Clerk, CHARLES S. DEVOY.	For County Clerk, CHARLES S. DEVOY.
For Register, ANDREW J. COMBA.	For Register, EDWARD T. GLOUGHLIN.	For Register, EDWARD T. GLOUGHLIN.
For President of the Borough of Brooklyn, FRANK MANN.	For President of the Borough of Brooklyn, LEWIS H. PONDRE.	For President of the Borough of Brooklyn, LEWIS H. PONDRE.
For Comptroller for the Borough of Brooklyn, EDWARD CLINVEN.	For Comptroller for the Borough of Brooklyn, ERNEST C. WAGNER.	For Comptroller for the Borough of Brooklyn, ERNEST C. WAGNER.
ALEXANDER J. ROONEY.	FRANK S. SENIOR.	THURSTON H. DEXTER.
For Member of Assembly for the Fourth Assembly District, HARRY W. BONDORIS.	For Member of Assembly for the Fourth Assembly District, GEORGE LANGHORST.	For Member of Assembly for the Fourth Assembly District, GEORGE H. MCKELLAND.
For Alderman for the Forty-fifth Assembly District, JOHN E. CORNICAN.	For Alderman for the Forty-fifth Assembly District, JOHN S. GAYNOR.	For Alderman for the Forty-fifth Assembly District, JOHN S. GAYNOR.

AN OLD PARTY COLUMN BALLOT.

With this ballot an illiterate person could vote a straight party ticket by merely putting a cross within the circle beneath the picture.

was eight feet in length and contained more than 200 names; and in 1924 the Chicago ballot contained 343 names.

A Long Ballot Leads to Blind Voting. — Some years ago immediately after an election, figures were collected from the most independent Assembly District in Brooklyn, New York, which

showed that 87 per cent of the voters did not know the name of the State treasurer just elected. When the names of candidates for scores of offices appear on a ballot, practically all voters cast a straight ticket.

Blind Voting Leads to Government by Politicians. — Because of the scores of officers to be voted for, about nine tenths of the voters vote blindly, that is, vote a straight ticket. By so doing they practically ratify the "appointments" made by the other tenth—the politicians who nominate the men for office. Hence most of our officers are practically appointed by politicians.

The National Municipal League, which has absorbed the National Short Ballot Organization, is promoting the short ballot movement through the columns of its monthly publication, *The National Municipal Review*. Its purpose is to educate the American people to the fact that most officers — especially unimportant ones — are actually chosen by politicians, whereas the people imagine that they are electing them. This organization advocates the election of important officers for long terms. It would allow these few to appoint the others. For instance, the State governor, State legislator, county commissioner, city councilor or commissioner, and mayor could be elected. The other State officers could then be chosen by the governor, county officers by the county board of commissioners, and city officers by a small council or commission, or by the mayor or the manager. This would center the authority and responsibil-



"FOR EXPERTS ONLY."

ity in a few officers, who could be more easily watched by the voters.

The present method of electing officers is a puzzle, the intricacies of which are understood only by politicians. Those who favor the short ballot would make the election process so simple that even the voter might understand it and be able to know something about those for whom he is to vote. They claim this system would produce a democracy *in fact* instead of a democracy *in theory*: that we now have a *democracy in theory* — a *politicians' oligarchy in fact*.

Short Ballot. — A few States have attained a short ballot. For example, Virginia elects only a few officers at a time. Before the days of the automobile it was inconvenient to vote annually, but this is no longer true. Neither is the annual election very expensive when so few names have to be printed and counted.

VIRGINIA SCHEME OF ELECTIONS

1932	1933	1934	1935
President and V. Pres. U. S. Representative	Governor Lieut. Gov. Attorney Gen. State Delegate	U. S. Senator U. S. Representative	Various County and District officials State Senator State Delegate

City elections are held in June. County clerks serve eight years.

The Recall. — When the people elect very few officers and trust everything to them, it seems advisable to be able to remove those who do not give satisfaction. Therefore twelve States¹ and several hundred cities, principally of the commission and commission-manager types, reserve the right to remove such officers.

Whenever a prescribed number of voters, the number varying from State to State, become sufficiently dissatisfied with an officer to petition for a new election, the officer whom they wish

¹ For complete list of Recall States see page 593.

VIRGINIA ELECTION, 1929

For Governor

(Vote for one)

JOHN GARLAND POLLARD of Williamsburg

WILLIAM MOSELEY BROWN of Lexington

W. A. ROWE of Northumberland

JOHN J. KAFKA of Chesterfield

For Lieutenant Governor

(Vote for one)

JAMES H. PRICE of Richmond City

CALLOM B. JONES of Hanover

For Attorney General

(Vote for one)

JOHN R. SAUNDERS of Middlesex

CHARLES C. BERKELEY of Newport News

For House of Delegates

NEHEMIAH KELLEY

The above Virginia short ballot is voted by drawing a line through the names of all candidates for whom you do not wish to vote. All directions are omitted from the ballot so as to discourage the ignorant voter.

to remove must again stand for election. If the officer receives more votes than any other person who has offered himself as a candidate, he remains in office, but if he receives less than any other candidate, he is removed from office; that is, he is recalled by the people.

Direct Legislation. — The idea of the short ballot movement is to reduce the number of elective officers so that the voters may know the qualifications of those whom they elect. If these few officers refuse to enact laws desired by the people, the voters themselves may enact them by means of the *Initiative* (see page 437). If they pass improper laws, the *Referendum* (see page 436) enables the voters to prevent the final enactment of such laws. Or if the officers prove incompetent or dishonest, they may be removed by the *Recall* (see page 590).

POPULAR PARTICIPATION IN LEGISLATION

Initiative	{	<i>Direct.</i> (Referred to the voters directly without being submitted to the legislative body.)	} Constitutional Statutory
		<i>Indirect.</i> (Referred to the legislative body, and if enacted by this body, reference to the people is unnecessary.)		} Statutory only
Referendum	{	<i>Mandatory by a constitutional provision</i> (also called compulsory or obligatory).	
		Examples: State constitutional amendments; bond issues; amendment of home rule charters.	
		<i>Optional with a legislative body</i> (also called voluntary).	
		Examples: A measure passed by a body with legislative power and submitted to the voters for ratification; a proposed law submitted to the voters for advice before action by the legislature.	} Submitted for ratification. Submitted for advice.
Recall	{	Of legislative and executive officers.	
		Of judicial officers also.	

PROGRESS OF THE INITIATIVE, REFERENDUM, AND RECALL

Percentages in this table refer to voters required on petitions

WHERE ADOPTED	WHEN	STATUTORY INITIATIVE	CONSTITUTIONAL INITIATIVE	POPULAR PETITION REFERENDUM	RECALL
So. Dakota	1898	5% indirect ¹		5%	
Utah	1900	5% indirect 10% direct		10%	
Oregon	1902	8% direct	8% direct	5%	25%
Nevada	1904, 1912	10% 1912 indirect	10% 1912 indirect	10% 1904	25% 1912
Montana	1906	8% direct		5%	
Oklahoma	1907	8% direct	15% direct	5%	
Maine	1908	12,000 indirect		10,000	
Missouri	1908	8% direct	8% direct	5%	
Michigan	1908, 1913	8% 1913 indirect	10% 1913 direct	5%	25% 1913
Arkansas	1910	8% direct	8% direct	5%	Carried, but killed by Su- preme Court
Colorado	1910	8% direct	8% direct	5%	25%
Arizona	1911	10% direct	15% direct	5%	25%
New Mexico	1911			10%	
California	1911	5% indirect 8% direct	8% direct	5%	12% State 20% local
Ohio	1912	3% indirect 6% direct	10% direct	6%	
Nebraska	1912, 1920	7% direct	10% direct	5%	
Washington	1912	10% direct and indirect		6%	25% State 35% local
Idaho	1912		(²)	(²)	(²)
No. Dakota	1914	10,000 direct	20,000 direct	7,000	30% 1920
Kansas	1914				10, 15, 25%
Louisiana	1914				25%
Maryland	1915			10,000 voters ³	
Massachu- setts	1918	20,000 indirect	25,000 indirect	15,000	

¹ "Indirect" means that opportunity must first be given for action by the legislature on initiated measures.

² Initiative, Referendum, and Recall amendments were adopted by the voters of Idaho in 1912, but without a self-enacting clause. Each has remained a dead letter for lack of action by the legislature; hence they are omitted from the table above.

³ Laws for any one county or Baltimore city may be referred to the voters thereof on a 10% petition.

MUNICIPAL: The Initiative, Referendum, and Recall have been incorporated more or less completely in the charters of hundreds of cities and towns in the United States and are in successful operation. Many such municipalities are not in the above-mentioned Initiative and Referendum States, the Initiative, Referendum, and Recall having been granted by the legislatures by means of general laws or special charters.

This direct action on the part of the people demands enlightenment on the part of the voters, and for this purpose many of the States which have adopted the Initiative and Referendum send a pamphlet to each voter before an election giving in a condensed form the strongest arguments on each side of every question referred to them. Thus with this publicity the people may become better prepared to vote upon the various issues with a degree of enlightenment.

If too many measures are submitted to the people, the voters are just as burdened as when they have too many officers to elect. Woodrow Wilson argued that these safeguards should be considered merely as "a gun behind the door" to be used only in cases of emergency.

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QUESTIONS ON THE TEXT

1. What is meant by registration? How often need one register in the State in which you live? Explain just how one registers.
2. What useful service is performed by political parties?
3. How do political parties induce unthinking persons to vote a straight ticket?

4. Name five different methods of nominating candidates.
5. Describe a delegate convention.
6. Describe a direct primary election.
7. What is meant by nomination by petition?
8. What is meant by the "closed" primary? By the "open" primary? What advantages and disadvantages has each?
9. Is the direct primary "an opportunity" or a "cure" of election evils? Explain.
10. When are most elections held for choosing State officers? Federal officers? City officers?
11. Explain just how an election is held — officers, place, equipment, ballots, booths, poll books, time of day, "watcher."
12. Explain the Australian method of voting and tell just how it was introduced into the United States.
13. Why do some States object to voting machines?
14. Explain why secret voting has taken the place of the *viva voce* method.
15. Describe an Australian ballot. *etc*
16. Should the names of candidates be arranged on the ballot in party columns or alphabetically?
17. What is meant by the short ballot movement? Give the arguments in favor of short ballots.
18. Explain the Virginia method of obtaining the short ballot.
19. What is meant by the *recall*?
20. What is meant by *direct legislation*? Did Woodrow Wilson favor it?

QUESTIONS FOR DISCUSSION

1. What provision is made in your State constitution in regard to State elections?
2. Upon what date is your State election held? City election? National election? County election? Why should National, State, and local elections be held on different dates?
3. Obtain a copy of the last ballot voted at your home and compare it with those printed in this chapter. Which do you consider the better?
4. Have your father, or your brother who votes, make a list of the National, State, county, township, city or village, and school officers elected by the people in your State. If they cannot do this, do you not think that it is a strong indication that more officers are being elected than the voters are capable of electing wisely? Which of them do you think should be appointed?

5. Explain the following quotation, which favors a "short ballot": "We cannot make the voters all go into politics, but by a drastic reduction in the number of elective officers we can make politics come to the voters."

6. The late Nicholas Longworth, when congratulated on his first election to Congress, is reported to have said: "Election! I wasn't elected; I was appointed." What is the significance of this remark?

7. The New Jersey election law enacted under the influence of Woodrow Wilson provides that a State convention of each party shall be held annually to adopt a party platform. The convention is composed of forty candidates nominated at the party primary for the offices of assemblymen or State senators, hold-over senators, members of the State committee, and the governor, or the candidate for governor the autumn when a new governor is to be elected. Would you favor this arrangement for your State? Why?

8. Mr. C. L. Gruber explains the word "government" in the following words: "The word 'government' is derived from the French *gouverner*, from the Latin *gubernare*, which was borrowed by the Romans from the Greek *kybernao*, a word meaning 'to steer a ship.' We therefore sometimes speak of the government as the 'ship of state.' The idea of general welfare and great vigilance is therefore embodied in the etymology of the word, since the interests of him who steers the ship are but the interests of every one on board. The safety of the vessel depends upon the skill and watchfulness of the man at the helm." Prepare an argument on the subject, "Eternal vigilance is the price of liberty."

9. In 1896 the Municipal Voters' League of Chicago was organized to promote efficient government in Chicago. It investigates the records of candidates nominated by the regular party organizations and furnishes the information pertaining to each candidate to the voters of the city. Its membership is never called together, its work being directed by an executive committee of nine members. This committee has the sole authority to commit the organization for or against any candidate or measure. Are the voters of your community informed as to the qualifications of candidates, or do you need such an organization?

10. Do you think the voters are more likely to elect the best candidates under the Chicago long ballot system or the Virginia short ballot system? Though Virginia holds more elections the total cost over a four-year period is greater in Chicago than in Virginia, because the Virginia ballots cost so little and the time required to count them is short. The number of ballots cast is greater where many officers are elected at one time, but do you suppose the quality is as good?

CHAPTER XXVII

STATE FINANCE

The Taxing Power of a State. — Taxes are charges imposed by a legislative body upon persons or property to raise money for public purposes. With the following exceptions, a State legislature may impose taxes of any kind and any amount, or may give permission to the legislative bodies of counties, townships, towns, or cities to do the same.

(1) *Taxes must be for a public purpose.* Exactly what is meant by a “public purpose” cannot be defined, but must be decided by the courts whenever taxpayers feel that they are being taxed for a private purpose and carry their complaints into court.

Some years ago Topeka, with permission of the legislature of Kansas, agreed to pay a sum of money to a manufacturing concern if it would locate its iron works in that city. The factory was so located, but when taxes were assessed for the payment of this sum of money certain taxpayers brought their complaint to court, and, after several appeals, the Supreme Court of the United States decided that taxes could not be collected for this private purpose.

On the other hand, railroads may receive aid from a State, county, or city, unless the State constitution prohibits it, because the public generally have such a direct interest in the transportation of commodities and the circulation of business that the whole community is benefited.

(2) *Taxes must operate uniformly upon those subject to them.* The assessment of all persons and property within a class or district selected for taxation must be according to a uniform rule. For instance, when a citizen of New York State inherits

a certain amount of property he must pay a State tax varying from eight tenths of one per cent to sixteen per cent, depending upon the amount inherited and the degree of relationship. This tax operates uniformly because all who fall within the same class are taxed alike.

(3) *The classification of property for taxation must be reasonable.* For instance, it was declared reasonable for Louisiana to impose a license tax upon manufacturers of sugar, at the same time exempting from its operation those who refined the products of their own plantations. But you could not thus tax Jews, Germans, Negroes, Republicans, or Catholics who manufacture sugar and exempt all others, because the classification would be unreasonable.

(4) *Either the person or the property taxed must be within the jurisdiction of the government levying the tax.*¹ Double, or even triple, taxation, however, is not forbidden. For example, a person working in one State and living in another might have to pay an income tax both in the State where he earns his money and in the State of his residence. And if he has invested his savings in a third State, that State also may tax the income from the investment.

(5) *In the assessment and collection of a tax certain guarantees against injustice to individuals must be provided.* For instance, if property worth \$10,000 is assessed for \$15,000, the owner has the right to go before some tax revision board or court and have the mistake corrected.

¹ The city of Charleston, South Carolina, borrowed money by issuing bonds which paid 6% interest. Afterward it attempted to tax these bonds whether they were held by citizens of Charleston or persons living outside the State, the city treasurer being directed to deduct 5% of the interest before sending it to the owners of the bonds. Those living outside the State went to court, and the Supreme Court of the United States decided that the city could not thus tax persons living outside the State. The city government did not have jurisdiction either of the persons or the bonds (property); hence to keep back a part of the interest was breaking the contract with the persons who lent money from outside the State.

(U. S. Constitution, Art. I, Sec. 10.)

(6) *A State may not tax the agencies by means of which the Federal government is enabled to exercise its functions.* The power to tax is the power to destroy, and if States could tax the agencies of the Federal government they might destroy these agencies. To illustrate, a State may not tax Federal government bonds or the incomes therefrom, salaries of Federal officers or the public money in its treasuries, or the royalty from patented articles.

(7) *A State may not, without the consent of Congress, tax imports or exports to or from the United States.*¹ More than half of the imports of the United States come through the port of New York. If New York State could tax these imports, most of which are intended for other States, she would really be levying a tax upon other States. The same would be true if she could tax Western wheat which is shipped abroad from the port of New York.

(8) *A State may not tax interstate commerce as such.* If a State could tax interstate commerce, it might interfere with the right of the United States to regulate it. For instance, logs owned by one Coe were floating down a river from Maine to New Hampshire. When the river froze they were within the town of Errol, which town attempted to tax them. The Supreme Court of the United States prohibited it, as it would have been a tax upon interstate commerce.

A State may not place a license tax on drummers who sell commodities to be sent from another State, but may tax peddlers who carry the commodities with them or get their supplies from commodities already in the State, provided, of course, that they are not discriminated against because of the fact that they sell goods brought from without the State.

(9) *A State may not, without the consent of Congress, lay any duty on tonnage.* Tonnage means a vessel's internal cubic capacity in tons of one hundred cubic feet each. A State may

¹ A State may impose small fees sufficient to cover the cost of enforcing its inspection laws.

tax a vessel as ordinary property, but may not tax it on the basis of tonnage.

(10) *State constitutions place a few restrictions upon their legislative bodies.* For instance, a constitution may limit the tax rate to a prescribed number of mills on the dollar; or may exempt from taxation such property as churches, schools, and burial grounds.

Different Kinds of State and Local Taxes. — The revenues for the forty-eight States are derived from the following sources :

State Revenue Receipts (1929) :

General Property Taxes	\$ 350,233,000
Special Property and Other Special Taxes	401,214,000
Includes \$148,592,000 inheritance taxes	
“ 74,595,000 income “	
Poll Taxes	3,542,000
Licenses	856,972,000
Includes \$282,578,977 motor-fuel (“gas”) taxes	
“ 287,070,266 motor-vehicle licenses	
Special Assessments	30,543,000
Fines, Forfeits, and Escheats	7,909,000
Subventions and Donations	151,546,000
Interest, Rents, and Highway Privileges	90,489,000
Earnings of General Departments	149,873,000
Earnings of Public-Service Enterprises	17,006,000
Total	\$2,059,327,000

County Taxes (1922) :¹

General Property Taxes	687,286,000
Special Taxes	4,007,000
Poll Taxes	9,127,000
Licenses and Permits	25,105,000
Special Assessments	19,475,000

Other Local Taxes (1922) :¹

Townships	149,028,000
School Districts	736,290,000
Incorporated Places with Less than 2500 Inhabitants	95,100,000
Incorporated Places with 2500 and Over Inhabitants	1,532,435,000
All Other Local Taxes	99,293,000
Total County and Other Local Taxes (1922) . .	\$3,357,146,000

¹ These statistics are compiled only every tenth year.

Cities of Over 30,000 Population (1929):

General Property Taxes	\$1,925,774,000
Special Property and Other Special Taxes	78,718,000
Poll Taxes	5,333,000
Licenses	100,004,000
Special Assessments	228,438,000
Fines, Forfeits, and Escheats	20,000,000
Subventions, Donations, and Pension Assessments	176,227,000
Interest, Rents, and Highway Privileges	148,725,000
Earnings of General Departments	79,407,000
Earnings of Public Service Enterprises	312,608,000
Total	<u>\$3,075,234,000</u>

General Property Taxes, which constitute more than half of all State and local revenue, consist of taxes on realty and personalty. *Realty* is land and permanent improvements thereon; *personalty* is movables, such as cattle, money, or shares of stock. In 1929 every State except California, Pennsylvania, Delaware, and North Carolina collected general property taxes. The local governments of all forty-eight States also collected such taxes. The rate of levy upon the \$100 worth of property varies from a few cents in some rural districts to several dollars in cities.

Special Property Taxes consist of taxes on the capital stock of banks and other corporations, deposits of savings banks, insurance companies according to the valuation of their policies, mortgages, etc.

Income Taxes amounting to only \$5,278,284 were collected by nine States in 1919, but in 1929 eleven States collected \$74,595,000 in income taxes, including \$41,760,000 collected by New York State.¹

Inheritance Taxes. (See page 604.)

Poll Taxes mean capitation taxes, a levy of say \$1 annually against adults. In 1929 only Indiana, Texas, and Virginia collected as much as half a million dollars from this source as a State tax, but a large number of cities and local governments levy a poll tax.

Licenses include both business and non-business taxes. The larger license revenues come from motor vehicles, motor fuels, insurance companies, and other corporations, but also include such minor items as hunting and fishing and dog licenses.

¹ In 1929 the following States had the income tax: Delaware, Massachusetts, Mississippi, Missouri, New York, North Carolina, North Dakota, Oklahoma, South Carolina, Virginia, and Wisconsin. Since 1929 Arkansas, Georgia, Oregon, and Tennessee have levied income taxes.

Special Assessments and Charges for Outlays constitute collections made for drainage, maintenance of levees, fire protection in forests; or collections made by Massachusetts from the cities by reason of the metropolitan park, sewer, and water loans; and special assessments for the construction of sewers, paving, curbing, and sidewalks.

Fines, Forfeits, and Escheats refer to fines for crimes, property forfeited for the nonfulfillment of duties attached thereto, and property reverting to the State when one dies without heirs or a will.

Subventions and Grants represent such items as aid from the National government for agriculture, education, experiment stations, and highways.

Donations refer to gifts for endowment funds for schools, etc., money for libraries, and the like.

Interest and Rents consist of interest on money deposited in banks, and rents from such sources as public school lands and public works belonging to a State or city but operated by a renter.

Highway Privileges mean licenses or franchises for electric lines, bus lines, etc., or for the use of streets; *e.g.*, basements beneath the sidewalks.

Earnings of General Departments include numerous items such as fees for governmental services, charges for tuition, charges for patients at hospitals, and sales of commodities produced at public institutions.

Earnings of Public Service Enterprises are from such State sources as docks and wharves, ferries, canals, toll bridges, electric railways, schoolbook publishing house (Kansas), tobacco warehouse (Maryland), irrigation project (Oregon), and land settlements (California); and from such city sources as water, electric, and gas systems, wharves, markets and public scales, cemeteries and crematories, public halls (San Francisco, Denver, Buffalo, St. Paul, Portland, etc.), subways for pipes and wires (Baltimore), railways, ferries, and toll bridges.

A new source of State revenue is not easy to find, but in 1919 Oregon found one and imposed a consumer's tax of one cent a gallon on gasoline. As this tax is collected indirectly it proved popular and spread like wildfire. To-day all States impose a gasoline tax ranging from two to six cents a gallon, which will probably produce half a billion dollars this year.

Half of the States distribute some portion of the gasoline tax to local communities. The amount thus distributed varies from the entire tax in Alabama to one sixth in several States.

In some States a small portion is distributed to cities and towns as well as to counties.

The success of the gasoline tax suggested the possibility of other indirect State taxes, and a great many States are now imposing a tax on cigarettes varying from ten to twenty per cent.

In the search for additional revenue, a large number of States have also recently imposed severance taxes on natural resources severed from the earth, such as coal, iron, oil, and timber.

The General Property Tax. — *Assessment.* — Each local governmental division — city, town, or township ¹ — has one or more tax assessors to determine the value of property which is subject to taxation. In case of personalty this is done each year, but in some States realty is assessed at longer intervals, but, of course, taxed each year. Assessors are expected to visit property and have the owner fill in a tax form. In practice they commonly assess one's property as it was assessed the previous year, and thus avoid the trouble and duty of visiting the property. The valuation put upon property by these assessors is usually accepted as the basis for county and State taxation.

As an example of the way in which the general property tax rate may be made up, the following illustration is given of the items that made up the tax rate within the town of West Chicago in the City of Chicago for 1929 (assessed at full value):

State	\$.39
Cook County . . . . .	.45
Forest Preserve District . . . . .	.09
City of Chicago	1.99
Board of Education	2.04
Sanitary District . . . . .	.57
West Park Board . . . . .	.50
Total	<u>\$6.03</u>

¹ In a few States the county is the smallest local division for purposes of assessment.

Equalization. — If your property is assessed higher than a neighbor's property of equal value usually there is a means of having the injustice corrected. You may complain to an appeal tax court, to the county board of commissioners, or to a local board of equalization, as the law provides. Many States have county boards of equalization to come into a township and raise or lower the assessment on all real estate in that township if it has been improperly assessed.

In most States there is also a State board of equalization to see that the property is assessed alike in the different counties. States without such boards often have property in one part of the State — *e.g.*, in a large city — assessed at its full value, whereas in another part of the State — *e.g.*, rural counties — it is assessed at only half of its value. This means that the city people are paying twice as much State property tax as justice demands.

Collection. — State, county, and local taxes are usually collected by the same officials. After the taxes are assessed tax bills are prepared. In some States they are mailed to the taxpayers; but in others the taxpayer must come to the county treasurer or township officer who collects taxes, to learn the amount of his taxes.

Delinquency. — If taxes are not paid on a prescribed date, a certain per cent is added. The property upon which the tax is levied is then said to be delinquent, and if the tax remains unpaid for a certain length of time, the property is sold, perhaps at auction. If it brings more than enough to pay the taxes, added per cent, and costs, the former owner receives what is left.

Exemption. — State constitutions commonly enumerate certain kinds of property which the legislative body may not tax. Schools, free libraries, churches, and government property are good examples of property usually exempt from taxation.

Inheritance Taxes.¹ — All States except Alabama, Florida, Nebraska, and Nevada collected inheritance taxes in 1929, but

¹ The term "estate tax" is sometimes used instead of "inheritance tax" if the tax is figured on the entire net estate instead of the separate bequests.

in many States the amount is very small because they exempt from the tax property inherited by lineal ancestors, lineal descendants, husband or wife, and brother or sister.

In New York an exemption of \$20,000 is allowed on property inherited by husband or wife. To all others the exemption is \$5000. The inheritance tax on the net estate, after allowing for the exemptions, varies from eight tenths of one per cent on a valuation up to \$150,000 to 16% of the amount by which the net estate exceeds \$10,100,000.

The method of assessing higher rates on large estates than on small is known as *progressive* taxation; and higher rates on distant relatives as *collateral*.

The Federal inheritance tax ("estate tax") was so much reduced in 1926 that Secretary Mellon proposed leaving this source of revenue entirely to the States. Because the States hesitate to impose substantial progressive inheritance taxes for fear owners of large estates will take up residence elsewhere, would it not be better for the Federal Government to collect all inheritance taxes and distribute the proceeds among the States? (See page 126.)

State Budget Systems. — Until 1913 most State incomes were expended in a very haphazard manner. The various spending departments and institutions of the State would send in their estimated needs, which were merely compiled by some State officer or perhaps sent directly to the legislatures. After the appropriation committees of the houses had framed the general appropriation bills which were based on these estimates, and the houses had passed them, a large number of petty appropriation bills were introduced.

Proposals to spend money came forward every year by the thousand, and their chance of adoption was not in proportion to their merits, but rather to the political influences behind them. When the legislature adjourned, no one knew definitely how much money had been appropriated. With the pressure of local interests and log-rolling methods of legislation, waste, extravagance, and deficits were inevitable.

The governors of many States were given the power to veto specific items in appropriation bills, but some legislatures, to satisfy all interests asking appropriations, voted millions more than there was revenue to meet, and thus placed upon the governor the disagreeable task of offending many interests by vetoing this and that item.

Since 1913 most States have devised some method of preparing a budget before the legislature meets, but because there is a wide variation in the location of responsibility for the preparation of the budget, the systems fall into three fairly distinct classes.

(1) *Legislative Budget*. — A few States continue to have their budgets prepared and submitted to the legislature by a committee of the legislature. This system makes it difficult to fix responsibility.

(2) *Board or Commission Budget*. — Nearly half the States prepare their budgets through boards or commissions, of which the governor is usually a member, constituted in one of the following ways :

- (a) members of the legislature and ex-officio administrative officers ;
- (b) ex-officio administrative officers ;
- (c) ex-officio administrative officers and persons appointed by the governor ;
- (d) persons appointed by the governor.

(3) *Executive Budget*. — About half of the States make the governor responsible for the preparation of the budget. This system is considered best for locating responsibility, and the methods used in the following States illustrate how responsibility may be fixed :

In Maryland the governor prepares a budget divided into two parts: one deals with the appropriations for the legislative, executive, and judicial departments, state debt, and other expenditures required by the constitution; and the other part deals with the general appropriations for State institutions, etc.

The legislature is permitted to increase or decrease items relating to the legislature, to increase items relating to the judiciary, but otherwise may not alter the bill except to strike out or reduce items. Supplementary appropriations may be considered by the legislature after the budget bill has been finally acted upon, but every supplementary appropriation must be embodied in a separate bill limited to some single work, object, or purpose; and each supplementary appropriation bill must provide the revenue necessary to pay the appropriation so made. The governor may veto any item of such bills.

In Nebraska, where the governor also prepares the budget, the legislature cannot make appropriations in excess of his recommendations except by a three-fifths vote in each house.

The governor of Massachusetts also bears the responsibility for the preparation of the budget, but the legislature may increase, decrease, or add items or omit items. However, after the budget is passed the governor can veto or reduce items or parts of items.

How Revenue Is Expended. — After revenue is collected, and the city or other local division, the county, and the States have each received their proper share, the respective treasurers are not permitted to pay it out until a proper warrant is presented. After the State legislature appropriates its revenue, the State comptroller or auditor issues warrants to persons entitled to the money, as he is directed to do by the legislative Acts appropriating the money.

After the county board appropriates the county money, the county treasurer pays it out when a warrant signed by the county auditor, or some other designated person, is presented. In cities and towns the council appropriates the revenue, and some designated officer or officers sign the warrants to be cashed by the treasurer.

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QUESTIONS ON THE TEXT

1. What are taxes? *money or value*
2. What restrictions are there upon a State's power to impose taxes?
3. Name the principal sources of State revenue.
4. What is the general property tax? Special property tax?
5. How are general property taxes assessed?
6. What do you mean by a board of equalization?
7. How are taxes collected? *levied*
8. What is meant by delinquent taxes?
9. What classes of property are usually exempt from taxation?
10. What is an inheritance tax?
11. What is meant by progressive inheritance taxes?
12. Explain how each of the three types of State budgets operates. *fixed*
13. Explain the use of warrants in the expenditure of revenue.
14. Give the principal sources of State revenue; county; city.
15. What taxes have grown in importance in recent years?

QUESTIONS FOR DISCUSSION

1. What provisions are made in your State constitution regarding taxation?
2. How many mills on the dollar is property taxed for State purposes in your State? For county purposes? For village or city purposes if you live in such a place?
3. Does your State have a capitation tax? If so, how much is it and who must pay it?
4. Does your State have an inheritance tax? If so, what would be the net proceeds of an inheritance of \$100,000?
5. Figure the approximate amount of taxes paid by some person with a wife and two small children. Salary \$6000; residence worth \$12,000; car worth \$1500.
6. How much does your State contribute towards the support of the National government, assuming that it contributes in proportion to its population?
7. If your property is assessed higher than your neighbor's, what redress do you have?
8. It has been suggested that the only way to reach such intangibles as money, notes, and accounts, is to protect a man only to the extent of the property on which he pays taxes. The remedy is to

prevent a note-owner from going to court with it if the note is not listed and a tax paid on it. Would this be expedient?

9. In 1918 it was discovered in Oregon that only 42,000 owners of automobiles had paid the personal property tax, whereas 63,000 had secured licenses. Therefore 21,000 cars had dodged the property tax; so the legislature of 1919 abolished the personal property tax on automobiles and increased the license tax, returning one third of the licenses collected to the home county of the machine's owner. Does your State have a personal property tax on automobiles? If so, would you favor abolishing it?

10. *The Original Package Doctrine* was announced in part in 1827 in the case of *Brown v. Maryland*. The State of Maryland had levied a tax on the sale of imported goods and the Supreme Court declared this to be an interference with the sale of imports. Goods imported may be sold, said the court, in the original package without interference by the State. Furthermore, imports in the original package must not be taxed by the State. (See United States Constitution, Art. 1, Sec. 8, Cl. 3.)

This case of *Brown v. Maryland* involved only imports from foreign countries, but years later the Supreme Court held that the original package from another State — as well as from foreign countries — might be sold *once* in spite of State laws to the contrary. The State has no power to regulate the sale of the original package except with the consent of Congress, but if the package is broken, it immediately ceases to be interstate commerce.

The State cannot tax the original package imported from abroad; but a State may tax goods shipped in from another State, at the same rate as local property, as soon as it reaches its destination and is in the hands of the consignee, even though it is still in the original package.

In brief, here is the State's authority over original packages:

First, the State may neither tax nor exercise police power¹ over *imports from foreign countries* until the original package is sold once, broken open, or used.

Second, the State may not exercise police power over goods shipped *from another State* until the original package is sold once, broken open, or used, *but it may tax* such original package as soon as it is in the hands of the consignee, provided, however, that it is taxed only as other property in the State is taxed.

Third, by the original package is meant one of such shape and size as is ordinarily used in the particular business involved. Any

¹ The *police power* of a State is its right to make and enforce laws which reasonably promote the health, morals, safety, and general welfare.

attempt to evade State control by using unusual packages would not be upheld by the courts.

When Tennessee legislated against the sale of cigarettes, a dealer attempted to evade the law by having the cigarettes delivered from outside the State in small retail packages. Why did the court hold that the sale of these packages was illegal? Could Tennessee have confiscated cigarettes brought from without the State in regular size commercial cartons? Could she have taxed them?

Can boxes of silk from France be taxed in a New York warehouse? Boxes of silk from Paterson, New Jersey, in a Chicago warehouse?

CHAPTER XXVIII

PUBLIC EDUCATION

Growth of Elementary Education. — Public free schools were established in several of the New England States as early as the seventeenth century, shortly after their settlement; but even there interest in education declined during the next century.

It is doubtful whether previous to the Revolutionary War as many as one half of all the white persons throughout the thirteen colonies could read and write. Most children depended upon the little instruction that their parents could give them at home, and the boys were given the preference because it was not considered that girls needed much schooling to prepare them for household duties. It was not until the nineteenth century that a systematic effort was made to educate the masses of people throughout the country.

In 1838 Horace Mann, first secretary of the Massachusetts State Board of Education, aroused great interest in public school education throughout the North. In the South there were no successful efforts to establish systems of public free schools until after the Civil War. As late as 1880 17 per cent of the individuals over ten years of age in the United States were illiterate — that is, could not write. By 1930 the number had been reduced to 4.3 per cent. There should be no illiterate adults except those who are mentally unable to learn — less than 1 per cent.

Compulsory Education. — There are about 24,000,000 pupils enrolled in the elementary schools ¹ — principally public free

¹ Elementary schools ordinarily include the first eight grades which a child is supposed to pass through between the ages of six and fourteen. The first four grades are commonly known as primary grades, the fifth and sixth as intermediate grades, and the seventh and eighth as grammar grades.

schools — but unfortunately only about three fourths of those that enter the first grade reach the eighth grade. However, practically all of the States have compulsory education in some form, but in all but six the pupils are required to attend only until they are sixteen or less years of age, and in half the States only an elementary grade education is required. In many States the laws are so poorly enforced that compulsory educa-



BANCROFT PUBLIC SCHOOL KINDERGARTEN, MINNEAPOLIS.

Half a million children are in our public school kindergartens.

tion exists in name rather than in fact. In the Southern States it is seldom enforced in the colored schools.

Five States require the complete high school course if a high school is maintained by the local school corporation. In other States some cities, for example Seattle, have compulsory high school education. Parents who do not send their children to school in compliance with the law may be fined from \$5.00 to \$50.00 for each offense according to the penalty imposed by the respective States.

Year-Round Schools. — During the summer months young pupils forget much that they have learned during the previous

school year; therefore some schools are running the year round, pupils being permitted to take three or four twelve-week terms. Thus a pupil can gain one school year every third year.

Superintendent William A. Wirt, of Gary, Indiana, feeling that the chore time of the farm boy has become the "street and alley time" of the city boy, keeps the pupils at school eight hours a day instead of six. Half of this time is spent in their



SCHOOL CHILDREN LEARN THE WAYS OF NATURE.

classrooms, the other half on the playgrounds, in the school gardens, in the manual training department, in the laboratory, in the assembly hall, or taking observation excursions. Thus two sets of classes can recite in the same rooms, the pupils having every other hour in the classroom. Hence the children are kept profitably occupied without growing weary of continuous hours in the classrooms.

The slackened school-building program caused by the World War created a shortage of accommodations, and to-day over 200



SHOP SCHOOL SCIENCE LABORATORY, ROCHESTER.



LIBRARY IN JEFFERSON JUNIOR HIGH SCHOOL.

cities of the country have relieved the congestion by instituting some modification of the Gary plan, which is sometimes called the work-study-play or the platoon system.

Growth of Secondary Education. — Until about 1850 only the few persons who could afford an education at a private academy could hope for their schooling to extend much beyond the three R's. Public high schools began to spring up about 1850 in



CIVIC AUDITORIUM IN REDONDO, CALIFORNIA, HIGH SCHOOL.

This auditorium is used as a community social center. It has a seating capacity of 1000.

most of the large Northern cities, and gradually spread to the Southern cities following the Civil War. By 1900 most towns had high schools, and now the consolidation movement is bringing high schools to the rural districts.

Transportation. — More than a million pupils are now being transported to public schools. Without transportation most rural high schools would not be practicable. The free transportation of students insures more regular attendance, reduces tardiness, protects children from wet and cold weather, and,

moreover, a well-supervised school bus provides a wholesome moral atmosphere.

Junior High Schools. — About 4700 junior high schools are organized. They usually embrace grades 7, 8, and 9. These schools are organized into departments, and this arrangement gives the pupils the advantage of teachers specially trained for the courses they offer. The junior high school tends to hold pupils in school for a year longer, and to give them some insight into social and civic activities.

Statistics. — There are now about 1,000,000 pupils doing seventh and eighth grade work in junior high schools, and more than 4,250,000 doing high school work above the eighth grade, including 350,000 in private schools. Of these 52 per cent are girls and 48 per cent are boys. The fact that only about half of those who enter high schools graduate is most regrettable.

Growth of Higher Education. — Nine colleges which continue to exist¹ were established under church influence before the Revolutionary War and were assisted by the colonial treasuries. Since the Revolutionary War schools of higher education have increased to about 1000 colleges, junior colleges, universities, and technical schools. About two hundred of these are supported by the public, including those supported by municipalities.

From the discovery of America until the World War less than 1,000,000 graduated from our colleges, but now about 100,000 graduate annually. These figures indicate that competition in the field of higher education will soon become acute. A person with only a high school education is already at a disadvantage; and in some States those with only a four year college education cannot teach in high schools.

Land Grant Colleges. — Since 1862 the Federal government has granted to the States about 11,000,000 acres of land for the

¹ Harvard (1636), William and Mary (1693), Yale (1701), Princeton (1746), Kings, now Columbia (1754), University of Pennsylvania (1759, reorganized 1779), Brown (1764), Rutgers (1766), and Dartmouth (1769).

INCOME OF INSTITUTIONS OF HIGHER LEARNING (1928)

Alabama Polytechnic Inst. . .	\$1,584,111	St. Louis Univ. (Mo.) . . .	\$1,399,123
University of Alabama . . .	1,061,965	Washington University (Mo.) . .	2,332,342
University of Arizona . . .	1,271,381	University of Nebraska . . .	3,700,843
University of Arkansas . . .	1,304,189	University of New Hampshire . .	1,457,761
University of California . . .	12,295,356	Rutgers University (N. J.) . .	3,687,237
University of So. Cal. . . .	1,978,863	Princeton University (N. J.) . .	2,419,067
Cal. Inst. of Technology . . .	1,735,434	College of New York City . . .	1,660,374
Leland Stanford Univ. (Cal.) .	4,198,803	Hunter College of N. Y. City . .	2,199,606
University of Colorado . . .	1,799,803	U. S. Military Academy (N. Y.) .	3,107,587
Colorado Agri. College . . .	1,106,852	University of Buffalo (N. Y.) . .	1,301,987
Connecticut Agri. College . . .	1,295,890	Cornell University (N. Y.) . . .	9,709,470
Yale University (Conn.) . . .	11,194,827	Columbia University (N. Y.) . .	15,340,052
Georgetown University (D.C.) .	1,225,543	Fordham University (N. Y.) . . .	1,687,160
George Washington Univ. (D.C.) .	1,020,217	New York University	5,678,084
University of Florida	2,096,464	Vassar College (N. Y.)	2,124,876
University of Georgia	1,343,903	Univ. of Rochester (N. Y.) . . .	5,385,722
Wesleyan College (Ga.)	1,358,869	Syracuse University (N. Y.) . . .	2,777,200
University of Idaho	1,349,576	University of N. Carolina	3,237,313
University of Illinois	7,897,832	N. C. College for Women	1,556,149
Univ. of Chicago (Ill.)	10,320,713	N. C. College of A. & E.	2,097,269
Northwestern Univ. (Ill.) . . .	3,357,694	Duke University (N. C.)	1,850,294
Indiana University	3,735,165	Univ. of Cincinnati (Ohio) . . .	2,253,743
Purdue University (Ind.)	3,936,224	Ohio State University	6,804,063
Univ. of Notre Dame (Ind.) . . .	1,196,443	Miami University (Ohio)	1,031,006
Iowa State A. & M. College . . .	4,140,472	Western Reserve Univ. (Ohio) . .	1,974,127
State University of Iowa	6,475,332	Ohio Wesleyan University	1,164,449
University of Kansas	2,328,520	Oberlin College (Ohio)	1,562,847
Kansas State Agri. College . . .	2,496,114	Univ. of Oklahoma	2,227,983
University of Kentucky	2,216,070	Oklahoma A. & M. College	2,041,598
Berea College (Ky.)	1,016,741	Oregon State Agri. College	2,276,063
Louisiana State U. & Agr.		University of Oregon	1,687,862
& Mech. College	1,594,471	Pennsylvania State College	3,875,273
Tulane University (La.)	1,629,747	Jefferson Med. College (Pa.) . . .	1,918,535
University of Maine	1,275,392	Temple University (Pa.)	1,877,891
U. S. Naval Academy (Md.) . . .	1,889,000	University of Pennsylvania	7,727,455
University of Maryland	2,783,785	Carnegie Inst. Tech. (Pa.)	2,087,760
Johns Hopkins University (Md.) .	2,111,052	Univ. of Pittsburgh (Pa.)	6,102,153
Massachusetts Ag. College	1,508,571	Lehigh University (Pa.)	1,070,040
Boston University (Mass.)	1,914,682	Brown University (R. I.)	1,622,931
Harvard University (Mass.) . . .	12,305,783	Clemson Agr. College (S. C.) . . .	1,586,485
Massachusetts Inst. Tech.	3,049,207	State Col. of A. & M. A. (S. C.) .	1,008,041
Smith College (Mass.)	2,341,149	University of Tennessee	2,411,702
Mount Holyoke College (Mass.) .	1,203,152	Vanderbilt University (Tenn.) . . .	1,628,139
Tufts College (Mass.)	1,245,974	University of Texas	2,911,140
Wellesley College (Mass.)	2,492,626	Texas A. & M. College	4,059,493
University of Michigan	10,532,546	A. & M. Col. & Pol. Inst. (Va.) .	1,983,510
Mich. State Col. of Ag. & A. S. .	3,196,311	University of Virginia	1,925,745
University of Minnesota	9,527,303	William & Mary College (Va.) . . .	1,252,998
Carlton College (Minn.)	1,286,310	State College (Wash.)	1,923,089
Mississippi A. & M. College . . .	1,707,374	University of Washington	2,917,463
University of Mississippi	1,966,028	West Virginia University	2,301,781
University of Missouri	3,656,254	University of Wisconsin	7,987,904

establishment of colleges of agriculture, sciences, mechanical arts, and military tactics; and annually it appropriates about \$15,000,000 for their support, including agricultural experimentation and extension work. The States annually appropriate a total of \$75,000,000 for their land grant colleges, and have broadened their curricula to university scope.

Junior Colleges are rapidly springing up. There are now 500, including about 40 in California. They offer locally the first two college years of liberal arts, pre-professional, or completion work, and thus enable many students to extend their education two years because they can remain at home. They are supported by the city or State, or by private endowment.

Administration of Public Schools. — Each State has its own system of public schools. Certain central control is reserved by the State governments, but the regulation of school affairs is left chiefly to the local governments — districts, townships, counties, and cities.

The District System, which originated in New England, places each school under the control of the patrons residing in the district from which the school is attended. This system is considered inefficient and is being replaced by a system with a much larger unit, such as the township.

The Township System places all the schools within its limits under one authority, usually a small board chosen by the voters. This system makes possible the establishment of consolidated schools.

The County System originated in the South, but has spread northward and westward. In 39 States an elective or appointive county superintendent supervises schools outside of independent cities, but he is more or less subordinate to an elective or appointive county school board.

The City System exists independent of the township or county in nearly all large cities and most small ones. Usually there is a small school board elected from the city at large, but in some cities the board is appointed by the mayor, the city council, or

the courts. For the actual administration of the schools the city board selects a city superintendent.

State Supervision. — Each State has a superintendent of education,¹ and about three fourths of them have State boards of education. In about thirty-five States the superintendents are elected, but the boards are selected by various methods.² The superintendent, or the board working through a superintendent, supervises the State system in accordance with the general school laws of the State.

School Revenue. — The revenue spent on our State public school systems totals nearly \$2,500,000,000 yearly — not much more than is spent on tobacco. It is derived principally from local taxes, to a less extent from State taxes, and to a very small extent from the income of permanent school funds and school lands. In some States the local school taxes are levied by the county or city school board while in others they are levied by the county commissioners or the city council. In about half of the large cities the school board submits to the city council for approval or disapproval an estimate of school needs. In the other half the school board either has full power to fix the annual school rate or to decide the amount of money needed and to require the council to levy the taxes necessary to produce that amount, subject to State restrictions.

The Federal government had not aided the State school systems until Congress passed the Smith-Hughes Act in 1917. It now allots to the States, on condition that they provide a like amount, funds for vocational education :

(1) For the training of teachers of agriculture, trade, home economics, and industrial subjects.

¹ He is commonly called Superintendent of Public Instruction or Commissioner of Education.

² In a number of States the State board is ex officio — the governor, secretary of State, treasurer, attorney general, and superintendent of public instruction usually being members. Since most school boards have technical functions these boards are not very logical. The members are too busy in their own special fields.

(2) For the salaries of teachers of trade, home economics, and industrial subjects.

(3) For the salaries of teachers, supervisors, and directors of agricultural subjects.

The Federal Board of Vocational Education (Commissioner of Education, Secretaries of Agriculture, of Commerce, and of Labor, and three citizens representing agriculture, commerce, and labor) in coöperation with State boards administers the funds.

Apportionment of School Funds. — After school taxes have been collected by the State or county the money must be distributed among the townships or other school districts to supplement their local taxes in the support of their schools. There are various bases for the distribution of these funds,¹ but the best is that used by New Jersey in apportioning the county school funds. The sum of \$200 is apportioned to a school for each teacher employed and the remainder of the fund is apportioned on the basis of aggregate days of attendance. This method of apportionment induces the local school board to have a sufficient number of teachers, to encourage a large attendance, and to have a long term.

Importance of Industrial Education. — To-day most products can be manufactured by means of complex machines; but it is necessary to have skilled labor to make, manipulate, and care for these machines. Thus it is necessary that the States educate their industrial classes for the duties which they are obliged to perform to meet the competition of the day.

If citizens of one State are industrially trained and those of another are not, those of the latter will do the menial work while those of the former do the skilled, for which the pay is always greater. Instead of merely attempting to force up

¹ These various bases are: (1) Taxes-Where-Paid Basis, (2) Total Population Basis, (3) School Population Basis, (4) Average Daily Attendance Basis, (5) Aggregate Days Attendance Basis, (6) Teachers Employed Basis, (7) Combined Basis of Apportionment, and (8) Discretion of Board.

wages of the untrained, which is impossible beyond a certain point, the States or cities should see to it that the real earning capacity of their citizens is increased by industrial education.

Industrial Training in Cities. — Less than half of our boys complete the eighth grade in most industrial cities, and in a number of industrial cities less than one fourth go beyond the



TRADE DRESSMAKING TAUGHT IN PRATT INSTITUTE, BROOKLYN.

sixth grade. Thus the systematic training of most boys ceases at the age of twelve or fourteen either because they do not care for or cannot afford such schooling as is offered; hence the great need of to-day is to make possible industrial training for these boys. Many cities have night schools for boys who work during the day, but industrial subjects are not usually offered.

In Massachusetts, with the consent of the Commissioner of Education, a city or town may establish an industrial school

and receive State aid covering one half of the cost. In some cases the trade school is under control of the local school board; and in other cases it is operated under the direction of an independent board of trustees appointed by State authorities. At Worcester apprentice boys in the machine trade spend four hours weekly in the school taking courses in English, shop com-



Ewing Galloway.

EVEN CITY BOYS SHOULD BE TAUGHT SOME PRACTICAL FACTS
REGARDING AGRICULTURE.

putation, drawing, and shop practice. The classes are held during the working day.

In the University of Cincinnati School of Engineering some of the students alternate between the school and the shops, spending two weeks in the school and two in the shops, but under the supervision of their teachers and for regular wages. The class work includes a discussion of the principles which the students have put into practice in actual shops.

In Seattle, where pupils are required to attend high school until graduation or until attaining the age of eighteen, a part-time school is provided. Here a small per cent of the students are permitted to attend classes a few hours each week between the hours of eight and five, but not less than 144 hours a year. The part-time permit may be granted because of economic



INSTRUCTION IN OPERATING AN INCUBATOR.

The United States Department of Agriculture conducts this type of extension work among the Negroes of the South.

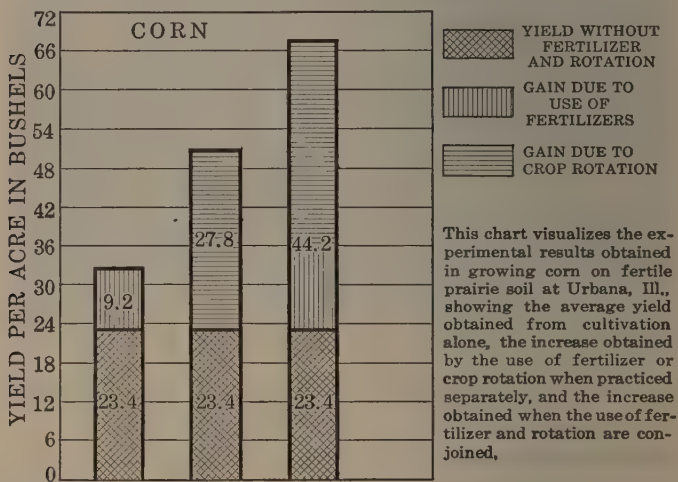
need, complete self-support, being needed at home, ill health, or mental inferiority.

Industrial Training in the Country. — For the same reason that cities need trade continuation schools — to increase the efficiency and earning power of city artisans — the country districts need agricultural schools and farm demonstration extension courses. Some years ago Dr. Knapp, who did so much for the encouragement of agriculture, estimated that there was a possible 800 per cent increase in the productive power of the farm laborer in the average Southern State, distributed as follows :

- 300 per cent to the use of better mules and farm machinery ;
- 200 per cent to the production of more and better stock ;
- 150 per cent to a rotation of crops and better tillage ;
- 50 per cent to better drainage ;
- 50 per cent to seed of higher vitality, thoroughbred, and carefully selected ;
- 50 per cent to the abundant use of legumes and the use of more economic plants for feeding stock.

Much has been accomplished since this estimate, but much more remains to be accomplished.

In some agricultural sections the average annual earnings of individuals engaged in agriculture is only \$150, whereas it is



\$1000 in Iowa. It is obvious that no substantial improvement in local education can come until the farmers are taught methods which will enable them to provide themselves with larger incomes.

Agricultural High Schools. — In various parts of the country, especially in the South, efforts are being made to establish high

schools in rural parts of the States, where boys and girls may be taught to farm in a more profitable manner than has been done by their fathers. In some States, counties are permitted and encouraged to establish agricultural high schools, often with State aid; in others the State establishes one agricultural



CONSOLIDATED SCHOOL BUS USED IN MONTGOMERY COUNTY,
ALABAMA.

high school in each congressional district, while localities sometimes maintain such schools at local expense.

Agricultural Demonstration. — By the Smith-Lever Act of 1914 Congress provided a system of agricultural extension work to be carried on by the State land grant colleges in coöperation with the Department of Agriculture. The National, State, and county governments jointly support this work.

This extension work provides practical instruction and demonstration in agriculture and home economics to persons not attending colleges. There are about 5000 extension specialists, county agents, home demonstration agents, and club agents

engaged in this work. County extension agents, including club agents, have organized 600,000 boys and girls into clubs.

Boys' Clubs. — Boys are organized into corn, garden, pig, poultry, baby beef, dairy, calf, and sheep clubs. Local, county, and State prizes are given and the topmost boys are often sent



STOCK JUDGING AT OREGON STATE COLLEGE.

Each summer hundreds of club boys and girls receive two weeks of instruction in vocational guidance at this college.

to Washington to meet the Secretary of Agriculture and to shake hands with the President.

Girls' Clubs. — Girls are organized into bread-making, meal preparation, hot school lunch, clothing, handicraft, and canning clubs. In the canning clubs each girl is taught to select the seed, plant, cultivate, and can tomatoes. The girls meet at any convenient place and are instructed by a county domestic science agent or by some local teacher or well-informed person who understands practical and scientific canning. One year a school girl in Rapides Parish, Louisiana, earned over \$900 raising chickens, canning fruits and vegetables, and sewing.

APPROXIMATE RANK OF THE STATES IN TEN SPECIFIED EDUCATIONAL FEATURES, 1924

GENERAL RANK	STATE	PER CENT OF ILLITERACY 10 YRS. OF AGE AND OVER	PROPORTION OF CHILDREN IN AVERAGE ATTENDANCE	PERCENTAGE OF ATTEND- ANCE IN HIGH SCHOOL	AVERAGE ATTENDANCE BY CHILDREN ENROLLED	AVERAGE NUMBER OF DAYS THAT SCHOOLS ARE KEPT OPEN	STUDENTS PREPARING TO TEACH IN PROPORTION TO NUMBER OF TEACHERS	PER CENT OF HIGH SCHOOL GRADUATES CON- TINUING EDUCATION	TOTAL COST, EXCLUDING SALARIES, PER PUPIL IN ATTENDANCE	AVERAGE SALARY OF TEACHERS, PRINCIPALS, AND SUPERVISORS	TOTAL AMOUNT EXPENDED PER CHILD OF SCHOOL AGE
1	Washington . . .	6	10	5	27	14	4	27	17	10	12
2	California . . .	22	1	1	33	8	34	36	1	2	1
3	Ohio . . .	16	14	8	12	15	22	26	6	15	7
4	New York . . .	28	30	23	3	3	37	12	5	1	4
5	New Jersey . . .	29	23	31	2	2	39	16	3	3	5
6	Minnesota . . .	8	19	21	21	12	15	25	7	19	9
7	Michigan . . .	18	16	20	20	13	12	28	8	16	8
8	Colorado . . .	20	13	4	32	23	11	23	10	18	6
9	Dist. of Columbia	15	11	14	13	10	43	5	33	4	13
10	Oregon . . .	3	3	3	15	22	31	43	15	21	11
11	Indiana . . .	12	4	9	5	25	32	21	29	11	21
12	Wisconsin . . .	14	29	2	9	16	3	32	27	13	26
13	Iowa . . .	1	9	11	14	18	16	42	19	29	14
14	Kansas . . .	5	2	12	10	20	6	44	28	27	19
15	South Dakota . . .	7	12	22	24	26	7	35	12	34	10
16	Illinois . . .	23	22	19	6	6	30	41	18	8	20
17	Nevada . . .	32	5	16	28	11	38	47	2	14	2
18	Wyoming . . .	10	7	18	25	21	49	34	9	25	3
19	Nebraska . . .	2	8	24	23	24	2	49	23	31	17
20	Utah . . .	9	6	10	19	30	42	10	30	22	25
21	Pennsylvania . . .	26	34	33	8	9	28	19	13	12	27
22	Massachusetts . . .	27	28	13	11	7	40	45	16	5	18
23	Connecticut . . .	33	21	27	7	5	45	33	20	7	22
24	Idaho . . .	4	31	15	36	38	9	24	24	23	24
25	North Dakota . . .	11	20	29	29	33	5	40	11	37	15
26	Arizona . . .	44	47	32	35	32	10	11	4	6	16
27	Rhode Island . . .	35	38	35	1	1	26	37	26	9	30
28	Maine . . .	21	15	6	4	19	25	48	31	39	32
29	Delaware . . .	31	37	30	17	17	29	22	22	20	28
30	Vermont . . .	17	17	7	18	37	24	20	41	38	35
31	Montana . . .	13	40	17	22	29	27	38	21	26	23
32	Maryland . . .	30	45	36	16	4	36	29	14	17	31
33	Missouri . . .	19	18	28	30	31	8	31	32	30	33
34	New Hampshire . . .	25	39	26	26	27	21	39	25	28	29
35	Oklahoma . . .	24	33	34	41	35	1	14	36	32	36
36	West Virginia . . .	34	25	43	31	34	23	15	38	24	34
37	Texas . . .	36	27	25	40	46	18	7	37	40	39
38	Virginia . . .	41	41	40	37	39	14	4	42	41	42
39	Kentucky . . .	37	42	44	38	36	20	8	44	36	43
40	Florida . . .	39	24	41	42	42	48	6	34	43	38
41	Louisiana . . .	49	48	37	39	40	35	2	35	35	41
42	New Mexico . . .	45	43	39	34	28	17	46	40	33	37
43	North Carolina . . .	42	32	49	43	43	44	1	39	42	40
44	Tennessee . . .	40	35	45	45	41	19	30	45	44	44
45	Alabama . . .	46	49	38	48	48	13	17	47	46	46
46	South Carolina . . .	48	46	46	49	49	33	3	43	45	45
47	Mississippi . . .	47	26	48	47	45	46	9	48	49	48
48	Georgia . . .	43	44	42	44	44	47	13	46	48	47
49	Arkansas . . .	38	36	47	46	47	41	18	49	47	49

Rank of States Educationally. — The table on page 627, prepared by Frank M. Phillips, formerly Chief of the Division of Statistics, Office of Education, gives the approximate rank of each State in specified educational features for 1924.

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QUESTIONS ON THE TEXT

1. To what extent were the American people educated previous to the Revolutionary War?
2. Who aroused great interest in public school education throughout the North in 1838?
3. When were public free schools established in the South?
4. What is meant by *elementary* schools? *Primary* schools? *Grammar* schools? *Secondary* schools? *Junior High* schools? *Junior colleges*?
5. What proportion of pupils complete the eighth grade throughout the United States?
6. How are compulsory attendance laws enforced where they exist?
7. When did public high schools develop in the United States?
8. What are the arguments for the junior high school?
9. How many colleges were established in the United States before the Revolutionary War?

10. How many colleges are there to-day in the United States? How many students are enrolled?

11. Name some of the universities whose annual incomes exceed \$5,000,000.

12. Explain how the United States has aided higher education in the States.

13. How many colleges and universities with incomes exceeding \$1,000,000 are located in the State in which you live?

14. Name four systems for administering public schools. Describe each.

15. From what sources is public school revenue derived?

16. Is the amount of money spent on public education as much as should be spent?

17. What are the seven different bases for the distribution of school funds?

18. Why is it so important that the States furnish industrial education?

19. Explain how industrial education is taught at the Worcester (Mass.) High School. At the University of Cincinnati. At the Seattle High School.

20. Explain how farms can be made more productive.

21. Explain how agriculture is taught by "county demonstrators."

22. Describe Boys' Clubs.

23. Describe Girls' Clubs.

24. According to the educational survey what is the general rank of the State in which you live?

QUESTIONS FOR DISCUSSION

1. What provisions does the constitution of your State make regarding education?

2. Is the compulsory education law enforced in your community? If not, by what means do you think it could be enforced?

3. The Manual Arts High School of Los Angeles, California, has a student government organization, which includes all the students and the faculty. Its officers are chosen from the student body, with the exception of the auditor and the treasurer, who are appointed by the principal, the treasurer being under \$2000 bond. The government of the school is practically in the hands of the students, but the principal has a right to interfere when he deems it necessary. Courts are held, where offenders who plead "not guilty" are tried. Counsel represents both sides and a student jury gives decisions. Laws may

be established by initiative and referendum, and the recall may be invoked against any elected officer. The organization transacts \$50,000 worth of business a year, the profit going into the treasury of the school. The book exchange, school printing plant, and cafeteria are among the enterprises. Prepare a constitution for the government of your school.

4. In many States textbooks are furnished free, in others the pupils have to buy them, and in a few the State buys them and rents them to the pupils for a nominal sum. What do you consider the merits and demerits of each of the systems?

5. Has your school a good library of reference books, such as dictionaries, encyclopædias, and atlases? Has your Board of Trustees or your Civic League ever been requested to procure these student utensils?

6. Does your school get circulating books from the State library?

7. Virginia schools of higher rank draw from the State treasury annually a sum of money equal to one per cent of the school annuity in addition to the regular annuity. This money is used as a loan fund for deserving scholars, who may receive sums not exceeding \$100 each for any one session to supplement what they can earn. Upon this loan the students pay 4 per cent interest. The New York State Department of Education awards every year 750 scholarships, each of which entitles the holder to \$100 a year for a period of four years. A list of the names of all pupils residing in each county who are entitled to college entrance diplomas is arranged in order of merit and the scholarships are awarded in that order. Five scholarships are awarded each county annually for each assembly district therein. Which of these plans do you think the better?

8. In many high schools it is customary for either the class in government or the graduating class to go to Washington to see Congress in session and visit the various departments, the Library of Congress, Mount Vernon, and other places of interest. The cost is usually defrayed by a school entertainment. Could the graduates of the several high schools in your county arrange to take this trip together?

9. Every child in Wisconsin between fourteen and sixteen years of age who, under a special permit, enters upon some useful employment, must go to an industrial, commercial, or evening school for five hours each week. The employer continues the wage during these hours, the attendance upon school being for such hours and at such places as the local Board of Education prescribes. What is the importance of this Wisconsin law? Should your State have a similar one?

10. The students of the Benson Polytechnic High School of Portland, Oregon, built a four-room bungalow according to drawings made by the architectural drawing students. The students in carpentry, in electric wiring, in plumbing, in sheet metal work, and in wood work all had a hand in it. It was then sold to the highest bidder. Do the students of the trade school of your city build real residences?

11. We are told that only 3 per cent of the 25,000,000 dairy cattle in the United States are pure-bred stock, that the average butterfat per cow in the United States is 160 pounds per annum, that in Wisconsin it is 320 pounds per cow because of the fine cattle owned in that State. Has this statement anything to do with education?

12. The U. S. Supreme Court declared void a Nebraska Act forbidding the teaching of foreign languages in *private* grade schools, and an Oregon Act requiring children to attend *public* schools through the grades; but the Tennessee Supreme Court upheld the Act prohibiting the teaching of evolution in *publicly supported* schools. (Under the constitution of Tennessee any fine in excess of \$50 imposed in a criminal action must be assessed by a jury. The accused teacher was fined \$100, the minimum penalty provided for in the Act, but the trial judge had imposed the fine. Since the judge had no power to do this, the conviction was reversed; hence the case of *Scopes v. Tennessee* cannot be appealed to the U. S. Supreme Court.) Give arguments in favor of each of these decisions.

13. "At a public meeting called to discuss school taxes the following argument is advanced in an effort to reduce school taxes: (a) The State and local governments are overburdened with school charges, — 'schooling' is a matter for those who can afford it, — let every one take as much as he can pay for in private institutions; (b) there are too many 'fads' in education. Let every one be given the good old-fashioned 'three R's' without the many additional 'trimmings' that have been loaded on to our school system, — if the old system were maintained, school expenses would be materially reduced. What would be your attitude toward each of these arguments and how would you express it?" — *The New American Government and Its Work*, by James T. Young.

14. Dean Lord of Boston University, College of Business Administration, found the average maximum income of the untrained man to be \$1200, high school graduate \$2200, and college graduate \$6000. The total earnings of each group up to the age of sixty are \$45,000, \$78,000, and \$150,000 respectively. The untrained man at the age of fifty begins to drop towards dependence, while the college man reaches his maximum capacity at sixty. What is the value of a college education?

15. Which course is more worthy of public support: one that has resulted in the production of non-breakable glass; of rubber from turpentine and other American chemicals; of alcohol from natural gas; and of leather, silk, photographic films, and sausage casings from wood; or a course that teaches one to vote unselfishly and unprejudiced; patriotism and respect for law; the importance of honesty and love of justice; how to promote international justice instead of settling disputes by war; and the philosophy or religion of happiness?

CHAPTER XXIX

SOCIAL LEGISLATION

Care of Mental Defectives. — *Insane in hospitals* supported by States numbered only 40,000 in 1880, but the number increased to 264,226 in 1928. All of these hospitals are more or less effectively learning the causes of insanity; schools are disseminating this knowledge; and the more progressive States are providing prompt and efficient treatment.

The Feeble-Minded. — Insanity is a disease which is often cured, but feeble-mindedness seems to be a permanent condition which cannot be cured. It exists from birth or from an early age. Persons thus affected are incapable of performing their duties as members of society in the position of life to which they are born. A feeble-minded person whose mental age does not surpass two years is known as an *idiot*; one whose mental age is between three and seven years is called an *imbecile*; and one whose mental age is between seven and twelve is technically known as a *moron*.

The education of imbeciles and morons should be apart from other children. They do not develop initiative, and have weak will power, but can be taught to lead a useful life within an institution. There they can be happiest because engaged in tasks at which they can succeed.

Feeble-minded persons usually have large families, and the increased proportion of feeble-minded persons not only will injure our race but will contribute a large proportion of our criminals, drunkards, and paupers; hence all States should have rigid laws to prevent the marriage of feeble-minded persons.

Old-Age Pension Systems. — *Arguments For and Against.* — Modern science and hygiene have lengthened the span of a man's life. But as his life has been lengthened, his working time has been shortened in many industries. A skilled worker of 50 has trouble finding a new job after a mechanical invention throws him out of his old one. Mass production requires speed, endurance, vitality — qualities of the younger man.

Some argue that a system of old-age pensions (1) discourages frugality; (2) causes children to neglect their duties towards their parents; (3) makes public aid more attractive than a poor house, hence increases taxes; and (4) burdens the industrious and thrifty to support the lazy and those who have spent their earnings on luxuries or squandered them on vice.

Others argue that a system of old-age pensions (1) will not discourage saving, because of the small amount of the pension; (2) is just to a laborer who has reared a family and could not save from his meager wages because of sickness, accidents, and occasional unemployment; (3) justly places the burden of supporting those who have been shiftless or unfortunate upon everybody instead of some good-hearted son or daughter who is not responsible; (4) relieves unemployment by enabling the old to retire, thus creating openings for the young; and (5) increases the purchasing power and thus keeps labor, machinery, and other forms of capital at work.

Present Status. — The United States Government has not provided old-age pensions for the general public; but since 1923 the States, listed in chronological order in the accompanying table, have passed some sort of old-age pension law.

These pension laws vary greatly in detail. The State may pay the entire pension and determine who are to receive it; the State may pay a portion and the local government a portion, the local government determining who are to receive it (perhaps with the consent of State authorities); or the county or other locality may have the full amount to pay.

The State may require the counties to adopt the pension

system, make it optional with the county board, or leave the matter to a vote of the voters of the county (perhaps with the consent of the county board).

In some States the pension cannot be granted to persons owning a specified amount of property ("assets") or having a specified annual income; in some the property must be surrendered to the county or State; in most, private income is included in the maximum pension that may be granted; and in many the State or county takes any estate left by a pensioner at death to compensate for pension received.

In the States where the local authorities must pay the pensions entirely from local funds few pensions are granted; but where a large portion of the pension comes from the State the local authorities authorize pensions more freely.

STATE	AGE	MAXIMUM PENSION	MINIMUM YEARS OF RESIDENCE			ANNUAL INCOME, OR ASSETS, THAT DEBARS	ADMINISTERED BY	FUNDS
			U. S.	STATE	Co.			
Mont.	70	\$25 mo.	15	15	—	\$300 a yr.	Co. Commissioners	County
Nev.	65	\$1 day	15	10	—	\$3000 assets	Co. Commissioners	County
Wis.	70	\$1 day	15	15	15	\$3000 assets	County Judge	$\frac{1}{2}$ State $\frac{3}{8}$ Town County
Ky.	70	\$250 yr.	15	10	10	\$300 yr. or \$2500 assets	County Judge	County
Col.	65	\$1 day	15	15	15	\$3000 assets	County Judge	County
Md.	65	\$1 day	15	15	15	\$3000 assets	Cir. Ct. of Co. or Sup. Ct. of Balti.	Co. or Balti.
Utah	65	\$25 mo.	15	15	5	\$300 a yr.	Co. Commissioners	County
Wy.	65	\$30 mo.	15	15	5	\$360 a yr.	Co. Commissioners	County
Minn.	70	\$1 day	15	15	15	\$3000 assets	Co. Commissioners	Towns
Cal.	70	\$1 day	15	15	1	\$3000 assets	Co. or City Board	$\frac{1}{2}$ State $\frac{1}{2}$ Co. or City
N. Y.	70	not limited	citizen	10	1	Discretion of authorities	Dist. Welfare officials and State Dept.	$\frac{1}{2}$ State $\frac{1}{2}$ Dist.
Mass.	70	not limited	—	20	—	Discretion of authorities	Town Bu. of O. A. Assistance and State Dept.	$\frac{1}{2}$ State $\frac{1}{2}$ Town
W. Va.	65	\$1 day	15	10	10	Any assets	Co. Court	County
Del.	65	\$25 mo.	15	5	—	\$300	State Com.	State
Idaho	65	\$25 mo.	15	10	3	\$300	Probate Judge	County

Alcoholic Drinks through the Ages :

The Mosaic Law provided that a glutton and a drunkard should be stoned to death.

Solomon said: "Wine is a mocker, strong drink a brawler; and whoever erreth thereby is not wise."

Isaiah told how "even the judges reel with wine, and stagger with strong drink; . . ."

Paul said: "Be not deceived: . . . drunkards shall not inherit the kingdom of God."

Emperor Vitellius gave a bacchanalian banquet which cost a million dollars but allowed his own mother to die in want because she rebuked him.

Shakespeare said: "Oh God, that men should put an enemy in their mouths to steal away their brains!"

The colonial *Virginia House of Burgesses* enacted a law providing that "ministers shall not give themselves to excess in drinking."

Robert Ingersoll, the agnostic, said: "Intemperance cuts down youth in its vigor, manhood in its strength, and age in its weakness. . . ."

Abraham Lincoln said: "Liquor might have defenders, but no defense. Whether or not the world would be vastly benefited by a total and final banishment from it of all intoxicating drinks, seems to me not an open question."

Dr. Charles Mayo, noted physician and surgeon, said: "You can get along with a wooden leg, but you can't get along with a wooden head. The physical value of a man is not so much. Man as analyzed in our laboratories is worth about ninety-eight cents. Seven bars of soap, lime enough to whitewash a chicken coop, phosphorus enough to cover the heads of a thousand matches, is not very much, you see. It is the brain that counts, but in order that your brain may be kept clear you must keep your body fit and well. That cannot be done if one drinks liquor."

The Author, in the days of saloons, experienced a collision

caused by a drunken driver; was frequently endangered in the grocery where he clerked by drunken loafers with razors; knew drunken farmers to leave their stock for days without water or feed; knew a young woman to break a marriage engagement with one she loved because he had learned to drink to excess at the State University law school; knew a woman who paid her husband's life insurance for ten years because her husband

The Whiskey Telescope---Scientifically Accurate



International News.

THE FUTURE OF A YOUNG MAN WHO ACQUIRES THE LIQUOR HABIT.

had learned to drink intoxicants at the University; knew the son of a prominent farmer to steal a load of wheat from his father's granary to renew his liquor credit; gave a beggar a dime, which he spent for liquor, and learned that he had in early life inherited \$50,000, but had recently stolen chickens from his wife and pulled up young fruit trees to buy liquor; saw an educated but drunken father throw dinner dishes at a son who attempted to defend a mistreated mother; saw a drunken man attempt to kill a good wife whom he loved when sober; heard a near neighbor's son drive his aged cultured mother from her home with a knife; passing one midnight through a lonely village he saw a mother, with infant in her arms, pacing the street before her home where her husband, on the verge of delirium tremens, groaned and shrieked like a maniac; and he

knew a university campus where the alumni commencement tents furnished free drinks and would not allow soft drinks to be served.

The Author saw a well-paid county treasurer lose his job through drink, and also a prosecuting attorney; saw the sheriff's son die from drunkenness; saw an educated popular county clerk die of delirium tremens; saw a State legislator with an arm broken by a policeman who had to enter the legislator's home to protect the family against the drunken legislator; and saw a brilliant United States senator so dissipated with drink that a saloon refused him credit while he was still in the Senate.

Because of conditions like the above, there was a growing demand for the abolition of the saloon.

Abolition of the Saloon. — *The License System.* — Before the Civil War liquor was sold at grocery stores at about the same price that is now paid for cider. From the time of the Civil War until the adoption of National prohibition the United States government imposed a tax on liquor ranging as high as several dollars a gallon. In addition to this Federal tax on liquor, the United States, the States, and the cities each imposed a license tax ranging from \$25 to more than \$1000 upon every saloon.

The license system lessened the number of saloons and the amount of liquor sold, and produced revenue for the National, State, and city governments. But the license system made the government a partner in the evils of the traffic and gave a certain respectability to the liquor business. Moreover, the high license tended to put saloons into the hands of a few wealthy men who used their money to secure the election of public officials that were favorable to the liquor business, thus having a corrupting influence upon the National, State, and city officials.

The Dispensary System. — Under the dispensary plan the government had a monopoly of the liquor business, and all liquor was sold in original packages by local dispensers. For a few years the State of South Carolina purchased all liquor

sold in the State, put it in bottles in Columbia, and sold it at State dispensaries in the towns and cities of the State. The dispensaries were open only in daytime, no liquor could be drunk on the premises, and the profit went to the State.

This system was an improvement over ordinary saloons, but corruption found its way to those in charge of the system; "bootlegging" became common;¹ and the evils of liquor continued. The legislature abolished the State dispensary and permitted each county to vote whether it would have a county dispensary or county prohibition.² In 1915, when the State adopted State-wide prohibition, twenty-nine counties were already in the dry column and only fifteen had county dispensaries. In a few other States cities or towns were permitted to have dispensaries.

Local Option. — By local option was meant the right of the people within a certain locality to decide by election whether or not they would permit the sale of liquor within the local area. The area within which the people could vote varied from State to State. It was the county, township, town (village), or city, or even wards of a city.

Before the sentiment against saloons became strong in cities, local option usually applied to townships, towns, and villages, the "drys" hoping to carry elections in the rural townships and towns. If the "drys" succeeded at this, they urged the State legislature to permit county option instead of township option, expecting the voters of the county outside of the city to cast enough votes to overcome the "wet" votes of the city.

State-wide Prohibition. — State-wide prohibition meant the prohibition of the sale of liquor anywhere within the State unless it was at certain drug stores, where it was sold for medical

¹ "Bootlegging" accompanies the high license system, the dispensary, and prohibition. The only way to get entirely rid of bootleggers would be to remove practically all tax and other restrictions.

² For South Carolina's experience with the dispensary, see *Current History*, October, 1931, pp. 69-72.

purposes under strict safeguards. The majority of States had State-wide prohibition when National prohibition was adopted.

Nation-wide Prohibition. — In January, 1919, the Eighteenth Amendment to the Constitution of the United States was ratified.¹ It provides that the manufacture, sale, or transportation of intoxicating liquors² within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes, is prohibited. It further provides that Congress and the several States shall have concurrent power to enforce the amendment by appropriate legislation.

Congress passed an Act which became effective the same day that the Eighteenth Amendment became effective, providing that "no person shall manufacture, sell, barter, transport, import, export, deliver, furnish, or possess any intoxicating liquor except as authorized in this Act." Provision was made by this Act for the use of alcohol for medical, industrial, and sacramental purposes if State laws permit. The Commissioner of Prohibition is charged with the enforcement of this law. The Prohibition Bureau was created in 1927 in the Treasury Department, but in 1931 it was transferred to the Department of Justice.

Any person injured in person, property, means of support, or otherwise by an intoxicated person has an action for damages against any person who sold or assisted in securing the liquor.

Any person allowing a room or a vehicle to be used in the violation of the prohibition law is liable for the fine imposed upon the person violating this law.

¹ Forty-five of the forty-eight States ratified the Eighteenth Amendment. In the State legislatures the total votes of the State senates was 1288 for ratification and 213 against; in the houses, 3739 for ratification and 934 against.

² Intoxicating liquor is by the Volsted Act of Congress defined as a beverage containing as much as one half of one per cent of alcohol.

If a place has been used for the violation of the law by any one, a judge may order the owner to keep the place closed for one year.

If a judge finds that a person is soliciting orders for intoxicating liquors, he may forbid its continuance by injunction. Its continuance is therefore in contempt of court and the guilty person may be convicted without trial by jury.

When an officer of the law discovers any person in the act of transporting, in violation of the law, intoxicating liquor in an automobile, water or air craft, or other vehicle, he should seize the conveyance that it may be sold. From the proceeds an officer pays the fee for the seizure, cost of the sale, then liens, if any, and turns the rest over to the Treasury of the United States.

An officer must not search a private dwelling without a search warrant, but at sight may search vehicles or luggage upon reasonable suspicion — *e.g.*, reputation as a bootlegger.

Under their concurrent power nearly all States have prohibition laws, and these laws may be more drastic than Federal laws. For example, many States have "bone dry" laws which forbid the sale of liquor even for medical purposes. A State may provide the same, or similar, penalties as the National government; and States commonly allow city councils to enact laws against the liquor traffic and drunkenness. Thus the United States law, perhaps the State law, and perhaps the city ordinance all provide for the forfeiture of an automobile caught in the transportation of liquor.

In brief, one who violates a liquor law may have committed three offenses by the same act — one against the city ordinance, one against the State law, and one against the Federal law; and he may be punished three times. If an automobile is seized by a Federal officer, it is forfeited to the United States; if seized by an officer of a State whose laws provide for its forfeiture, it is forfeited to the State; if by an officer of a city whose ordinances provide for its forfeiture, it is forfeited to the city.

A person who violated the liquor law and was punished by both a State and the United States claimed that the United States Constitution forbids one being tried twice for the same offense. The Supreme Court decided against this contention. Amendment V, which provides that no person shall be subject, for the same offense, to be twice put in jeopardy, restricts only the Federal government, not the State. The Court showed that if a person prosecuted by the State should thereby become immune from prosecution by the Federal government, violators of the liquor law would learn of a lenient local justice and whenever pursued would flee to such justice for a \$5 fine so that the United States courts might not impose a \$1000 fine.

In 1926 President Coolidge authorized the appointment of state, county, or city police as federal prohibition officers in order to bring about better coöperation and to permit local officers to ignore city, county, and State lines.

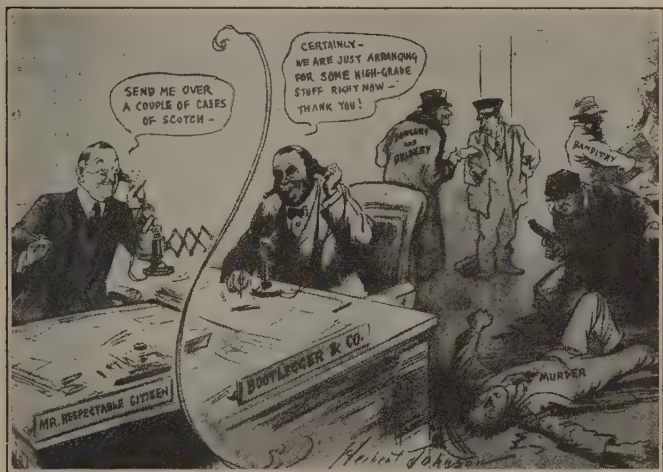
Illegal Importation from Foreign Countries. — Legally imported liquor must pay a tariff duty; therefore smuggling liquor violates tariff, prohibition, and probably State laws.

Our tariff law forbids the unloading of cargoes, without permission, within 12 miles of the shore. Though international law recognizes jurisdiction over alien vessels only within a three-mile limit, self-preservation seems to justify this law.

By a treaty of 1924 Great Britain agrees that vessels flying the British flag may be searched within one hour's sail of our shores on reasonable cause for suspicion that they are carrying contraband liquor intended for consumption in the United States. If the liquor is intended to be conveyed to shore by a vessel other than the one searched, it is the speed of the former that determines the distance from shore that a British vessel may be searched and seized. In exchange for this privilege to search British vessels beyond our three-mile limit, we extend to them the right to bring liquors listed as sea stores or cargo destined for a foreign port into our territorial waters provided they are kept under seal continuously while the vessel is within our

territorial waters. Canada and other countries have signed treaties like this one, and all countries are invited to do so.

As an illustration of how the Treaty with Canada works, in 1929 an American coast guard boat hailed a Canadian rum runner named *I'm Alone* eleven miles off the coast of Louisiana. The *I'm Alone* fled far out at sea pursued by two patrol boats.



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IS THE BOOTLEGGERS OR "MR. RESPECTABLE CITIZEN" THE MORE RESPONSIBLE FOR THE ABOVE CONDITIONS?

After repeated demands that the *I'm Alone* stop, our patrol boat sank the *I'm Alone*. Canada protested, our State Department argued that we acted properly, so the countries submitted the matter to arbitration.

Minor Violation of the Federal Prohibition Law a Misdemeanor.
— If one manufactures, transports, or sells not more than a gallon of intoxicating liquor, and has not been convicted for violating the prohibition law for two years and is not habitually engaged in the violation of this law, his maximum penalty is \$500 fine or six months in jail or both.

Other Violations of the Federal Prohibition Law May Constitute a Felony. For these violations the maximum penalty is \$10,000 fine or five years imprisonment at hard labor or both. Since 1929, when the violation of this law was made a felony, it has been possible for the immigration authorities to deport an alien who violates this law.

Report of Prohibition Law Enforcement Commission. — President Hoover appointed a commission under the chairmanship of George W. Wickersham to report on prohibition law enforcement. The report, which was made in 1931, includes the following:

(1) The commission is opposed to the repeal of the Eighteenth Amendment.

(2) The commission is opposed to the restoration in any manner of the legalized saloon.

(3) The commission is opposed to the Federal or State governments, as such, going into the liquor business.

(4) The commission is opposed to the proposal to modify the National Prohibition Act so as to permit manufacture and sale of light wines or beer.

(5) The commission believes there is no adequate observance or enforcement, and that the appropriations of Congress for enforcement should be substantially increased.¹

(6) The members of the commission differ in their opinions as to the extent to which prohibition can be enforced.

(7) All members of the commission agree that if the amendment is revised, it should be made to read substantially as follows: "The Congress shall have power to regulate or to prohibit the manufacture, traffic in, or transportation of intoxicating liquors within, the importation thereof into, and the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes."

¹ It is noteworthy that the Federal Prohibition Commissioner receives a salary of only \$9000 a year whereas the Association Against Prohibition pays its head \$25,000.

Under present means of rapid transportation by land, sea, and air it would be impossible for dry States or counties to prevent the inflow of liquor if wide-open wet States could legally be scattered among them.

Conservation of Health. — When people believed that disease was a “humor” in the blood, they waited until the malady appeared and cured it with medicines — or at least tried to



A FRESH AIR PLAYGROUND ON A NEW YORK CITY ROOF.

cure it. But now that we know most of our prevalent diseases to be caused by bacilli (germs), we know it is possible to prevent them if the bacilli are kept from our systems.

For instance, if the parasites causing the hookworm disease had been understood in the United States before Doctor Stiles of the United States Public Health Service identified them in 1902, and not allowed to spread, the millions of victims of the disease would have escaped. Fortunately this disease can now be easily prevented or cured, and State and county health boards

are coöperating with public schools to eradicate it. Again, if we have the water and milk supply free from typhoid bacilli, and screen against the flies which carry these germs, we are not likely to contract typhoid fever. But individuals living in cities, especially, cannot know whether the water and milk supplies are pure or whether the hotels are sanitary. The State



OPEN AIR FOR CHILDREN IN THE CENTER OF A GREAT CITY.

and cities must have officers to inspect the milk supply, water supply, food supplies, hotels, and restaurants. Whereas in the past it has been the duty of the family physician to *cure* diseases, in the future it should be the duty of the public medical official to *prevent* diseases by proper sanitary precautions.

States and cities should maintain laboratories for the examination of water, milk, and other foods; should have an annual examination of school children and even of adults; should regulate vaccination; should inspect meat shops, soda fountains, hotels, tenements, factories, and the premises of residences; should disinfect places where contagious diseases have

existed; should establish and maintain pest-houses, sanatoriums for consumptives, and recreation grounds for all persons.

Citizens were at one time slow to realize that it is cheaper to pay taxes for the prevention of disease than to pay doctors' bills and hospital bills for their cure. A few people can buy milk from the high price dairymen, buy spring water, screen



PROPOSED RIVERSIDE PARK IMPROVEMENT, NEW YORK.

72d Street to 129th Street. Promenade on waterfront, driveway on railroad roof, boat basins, bathing and skating pool, playgrounds, tennis courts, and concert groves.

premises, and go to great expense to protect themselves; but most people cannot afford such protection, and therefore contract diseases, menacing the health of all.

Sanitation to be of any great value must be practiced throughout the city. When Mr. Preston was Mayor of Baltimore he waged a war on the mosquito. Inspectors were employed to go from house to house to locate places where mosquitoes might breed. Behold, in the Mayor's own yard was found a jar containing water in which mosquitoes could multiply. He paid his fine cheerfully, but the incident goes to show that the sani-

tation of a city, or State, cannot be left to individuals. It is too natural for one to be negligent — to forget.

Unemployment. — What sight is more depressing on a gloomy wintry day than a long shivering bread line; and what tragedy is greater than a man looking for something to eat, with wife and children at home waiting for him to bring it? From time to time such conditions exist in these rich United States. A consideration of the following causes of unemployment may suggest remedies for the above conditions: laziness, misconduct, inefficiency, strikes and lockouts, irregular factory orders, seasonal jobs, commercial crises, labor-saving devices, and consolidations.

Laziness. — Some people inherit weak constitutions, some bare-foot children pick up the hookworm and are thought to be lazy, some yield to unfavorable climatic conditions, some are spoiled by over-indulgent parents, and still others just like a "good time."

Misconduct. — Dope fiends, drunkards, dishonest, and malicious persons naturally lose their jobs.

Inefficiency. — Too many just drift into the wrong vocation, are not trained for it, and are not happy in it. Too many schools just try to prepare students to live in the enjoyment of mental culture, but not to become vocationally so efficient that they will enjoy making a living. They give way to the enthusiastically efficient.

Strikes and Lockouts. — Months of unemployment result from strikes and lockouts. Employers and employees could profitably study the success of Benjamin Rowntree in dealing with his 7000 producers of cocoa, chocolates, and bonbons. Mr. Rowntree developed a committee of his employees with whom he frequently met. Suppose a competitor produced a box of bonbons for two shillings that cost his factory 2 shillings 6 pence. He would show it to his committee of employees and say: "This box sells for six pence less than it costs us to produce. Either we must cut the cost or 1000 employees will lose

their jobs." Knowing him to be honest and sympathetic, the committee would get busy and suggest a mechanical efficiency, an organization efficiency, or would read the riot act to any employee soldiering on the job. Thus Mr. Rowntree had his committee of employees discipline his employees for him.

Irregular Factory Orders. — Some factories employ enough men for rush periods but lay many of them off during periods of lax orders. The Ford Factory has largely avoided this irregularity by requiring his agents to accept the cars regularly throughout the year and hold them until sold. The Proctor and Gamble Company estimates its annual production in advance, divides it into twelve monthly parts, and gives steady employment throughout the year. The Company is assisted in estimating its annual production by giving reduced prices to buyers who will contract for a year's supply of soap.

Seasonal Jobs. — Such employees as fruit pickers, canning factory workers, and out-of-door laborers need another job in winter. Many young people go to school; but many adults must migrate to the city or to the South. To assist these migratory employees a nation-wide employment bureau should give aid.

In 1930 the United States Senate passed a bill providing for a United States Employment Service as a bureau in the Department of Labor. Federal money was to be distributed to the States in proportion to population on condition that the respective States match this money with an equal State or local fund. The local employment office was to report the number of unemployed or the number of available jobs in each occupation; and the central office was to act as a clearing house. Assistance in the transportation of workers was also authorized. Free postage was extended to all of these government agencies. But this Employment Service bill after being passed by the House of Representatives was vetoed by the President.

Commercial Crises. — When a new railroad is built, a mine opened, oil struck, a factory opened, or climatic and recreational

advantages of a region suddenly impress the public, land values begin to rise. Everybody wants to buy lots for the purpose of selling again. Buyers come from everywhere and prices go sky-high. Then soon the buyers become less numerous than the sellers. Prices begin to fall, and soon there are no buyers at all. Stagnation, bankruptcy, and ruin follow. The few who won in the excitement move away or are afraid to invest in productive industry. The fortune-seekers who have flocked to the boom center are without employment; and recovery is slow.

Previous to 1929 the United States enjoyed prosperity. The public was optimistic. The market value of stocks was rapidly rising. You could buy stocks this month and sell them next month at a nice profit. Everybody became excited. Many neglected business to deal in stocks. Millions bought stocks with borrowed money. Finally when the prices of stocks became absurdly high the bubble burst. Stocks fell in price much more suddenly than they had risen. Many who had bought on some form of credit were obliged to sell and lost everything, millions lost heavily; and even those who continued to hold their stocks felt poorer. Buying declined, factories became overstocked, employees were discharged. And because the discharged could not purchase, others lost their jobs.

During the World War the United States became a purchaser of billions of dollars' worth of material which was destroyed or soon became worthless. Women flocked into industry, Negroes moved to industrial centers, and at the end of the War immigrants began to flood the country. When the War ended, the Government stopped its war purchases, peace-time products accumulated faster than purchasers, and unemployment resulted.

To lessen the suffering from unemployment caused by these commercial crises, which seem to recur in economic cycles, Congress created the Federal Employment Stabilization Board in 1931. This Board is composed of the Secretaries of the Treasury, Commerce, Agriculture, and Labor.

The Board is authorized to appoint a director, experts, and a clerical staff. With this assistance the Board is to advise the President from time to time of the existence or approach of periods of unemployment. The President is then to ask Congress for emergency appropriations for the construction of public buildings, improvement of rivers and harbors, flood control, highways, and other public works.

That there may be no delay in starting this public work the construction agencies of each department of the government must keep a six-year construction plan up-to-date by an annual revision.

The idea is that in times of prosperity the government should pay its debts, and in times of depression borrow money and do public work which would in normal times spread over a number of years.

Labor-Saving Devices. — The great scientific progress now being made through the invention of labor-saving devices is annually sacrificing hundreds of thousands of workmen upon the altar of scientific progress. For instance, an automatic mechanism produces 73,000 electric light bulbs every 24 hours, displacing 992 hand operators for each machine installed. And in the automobile industry 30 workers were doing as much in 1925 as 100 workers in 1914. There is a great forge electrically operated that can do the work of the muscles of 100,000 men. Think of the tractor and the combine on the farm. And in the city even the hod carrier is merely a humorous recollection of the past.

Nobody knew how many were unemployed throughout the United States until the Census of 1930. And the same year Congress passed an Act directing the Bureau of Labor Statistics to collect and publish at least once a month complete statistics of the number of persons employed in all industries that employ large numbers of persons, the total wages paid, and the total hours of employment. Such statistics are to be gathered for the principal branches of each industry throughout the United

States, by States, and for such other divisions of the country as the Secretary of Labor directs.

This statistical information is good for a start. But it simply shows how many wage earners are unemployed. A free nationwide employment agency would seem to be the next logical step. Then our governments should provide vocational education for adults who lost their jobs as a result of the introduction of labor-saving machinery.



Underwood and Underwood.

FOURTEEN LESS TO EMPLOY.

Five-row peanut planters on an up-to-date Georgia plantation. One driver does three times the work of five men working mules.

While labor-saving devices make some laborers temporarily poorer, they make the many richer in an abundance of products, and make it easier to become a millionaire. Might it not increase the amount of constructive employment if the government should levy enough progressive income and inheritance taxes and taxes on luxuries to carry out great nation-wide enterprises — enterprises too large for private financing or too unselfish in their purpose to produce cash dividends?

If more profitable work cannot be found, or is not desirable, such work as there is might be better distributed. We might

follow Ford's five-day week ; or, perhaps still better, institute a six-hour day. We might add an amendment to our Constitution forbidding the labor of children under 16 in factories or mines throughout the United States.

In 1931 the Federal Government took a lead in reducing the working hours by inaugurating a four-hour day Saturdays for nearly all civil employees of the Federal Government, and without any reduction in pay.

Consolidations. — Labor-saving devices have in the main affected manual laborers ; but the merging of stores, banks, factories, and railroads affects the more educated. Mergers release managers, legal retainers, and salesmen. They might invent new luxuries to sell to those who can buy, they might establish better educational institutions for the rich ; or if we should come to the six-hour day, there should be masses with leisure enough to demand adult education in music, the cultural branches, mechanical hobbies, as well as vocational education to improve their earning power.

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QUESTIONS ON THE TEXT

1. How are States taking care of their insane?
2. What do States do for their feeble-minded persons?
3. How many kinds of feeble-minded persons are there?

4. Should States permit feeble-minded persons to marry?
5. Give arguments for and against old-age pension systems.
6. What is the present status of old-age pension laws in the United States?
7. What is the maximum old-age pension usually paid? Who pays it?
8. Quote several persons regarding alcoholic drinks.
9. What are some evils of drink that have come to the author's attention?
10. Give the steps leading to the abolition of the licensed saloon.
11. Was the dispensary a success when tried in South Carolina?
12. How many States voted for and against Nation-wide prohibition?
13. What does the Eighteenth Amendment provide? The Volstead Act?
14. What happens to a car caught transporting intoxicating liquor?
15. Can the United States and a State both convict for bringing liquor into a State?
16. To what extent may liquor be seized at sea?
17. What is the Federal penalty for selling liquor?
18. What did the Wickersham Commission recommend regarding the enforcement of the prohibition law? Why did it oppose allowing each State to determine whether it has prohibition?
19. Which are more important, public health officers or private physicians?
20. Explain the causes of unemployment. What has the government done to remedy it? What more do you think it could do?

QUESTIONS FOR DISCUSSION

1. The united charities associations of many cities have a card index of all deserving and all undeserving poor or street beggars. Any individual can obtain a little folder containing letters of introduction to the association; and if he gives such a letter to a beggar, he knows that the latter will be cared for by the association. Should you give what you have for charities to the unknown beggars or to the association or community chest? Is there a State or local officer to whom you can refer beggars for help and employment?

2. Doctor Carl Kelsey has grouped the causes of poverty into three main classes:

(1) *Environmental:*

- a. Adverse physical environment: polar regions, tropics, deserts, swamps.
- b. Disasters: flood, earthquake, fire, famine.

(2) *Personal:*

- a. Physical defects: feeble-mindedness, insanity, blindness.
- b. Moral defects: dishonesty, laziness, shiftlessness, etc.
- c. Intemperance.
- d. Licentiousness.
- e. Sickness.
- f. Accident.

(3) *Social:*

- a. Industrial changes affecting the worker: changes of location of trade, inventions, strikes.
- b. Exploitation.
- c. Race prejudice.
- d. Sickness, death, desertion, crime of natural supporter.
- e. Defective sanitation.
- f. Defective educational system.
- g. Bad social environment.
- h. War.
- i. Unwise philanthropy.

What are the chief causes of poverty in your immediate neighborhood? Which of these various causes enumerated are secondary to some primary trait of character or habit; for instance, lack of foresight and frugality? Drunkenness? Lack of religious or moral training?

3. Why is it unwise for a child to have much money to spend?

4. After 1934 interstate prison-made goods become subject to State law as soon as delivered — in the original package. Do you favor the law?

5. If you have the right to vote taxes on your neighbors for old age pensions for the poor, for hospitals, and for widows' pensions, have they a right to forbid your use of opium and intoxicating liquors which cause poverty, sickness, and death? Would you rather live in a jungle with animal freedom or in a socialized society with suffrage?

6. "Bootlegger" is a new word that has been coined. What does it mean? Is the Bootlegger or the Bootleggee really the more guilty?

7. How many of the conditions mentioned below have you observed?

"Intemperance cuts down youth in its vigor, manhood in its strength, and age in its weakness. It breaks the father's heart, bereaves the doting mother, extinguishes natural affections, erases conjugal love, blots out filial attachments, blights parental hope, and brings down mourning age in sorrow to the grave. It produces weakness, not strength; sickness, not health; death, not life. It makes wives widows, children orphans, fathers fiends, and all of them paupers and beggars. It feeds rheumatism, nurses gout, welcomes epidemics,

invites cholera, imports pestilence, and embraces consumption. It covers the land with idleness, misery, and crime. It fills your jails, supplies your almshouses, and demands your asylums. It engenders controversies, fosters quarrels, and cherishes riots. It crowds your penitentiaries, and furnishes victims to your scaffolds. It is the life-blood of the gambler, the element of the burglar, the prop of the highwayman, and the support of the midnight incendiary. It countenances the liar, respects the thief, esteems the blasphemer. It violates obligations, reverences frauds, and honors infamy. It defames benevolence, hates love, scorns virtue, and slanders innocence. It incites the father to butcher his helpless offspring, and helps the husband to massacre his wife, and the child to grind the parricidal axe. It burns up men, consumes women, detests life, curses God, and despises heaven. It suborns witnesses, nurses perjury, defiles the jury-box, and stains the judicial ermine. It degrades the citizen, debases the legislator, dishonors the statesman, and disarms the patriot. It brings shame, not honor; terror, not safety; despair, not hope; misery, not happiness. And with the malevolence of a fiend, it calmly surveys its frightful desolation, and unsatisfied with its havoc, it poisons felicity, kills peace, ruins morals, blights confidence, slays reputation, and wipes out national honors." — Robert Ingersoll.

"As a former locomotive engineer I would like to know how many opponents to prohibition want to ride on a train with a drinking engineer." — Congressman John G. Cooper of Ohio.

"Only 16 out of 250 Neal and Keeley institutes (for the treatment of inebriates) remain." — William E. ("Pussyfoot") Johnson.

"I estimate that prohibition saves this country \$6,000,000,000 annually in increased efficiency, and if enforcement cost a billion dollars a year it would be worth it." — Professor Irving Fisher, Yale Economist.

In 1927 "England spent £298,800,000 on alcoholic liquors." (This is more than \$173.00 per family.) — Lloyd George, Ex-Premier.

"The nations that refuse to take this prohibition step forward in the economy of human resources are definitely choosing to occupy a secondary position in the civilized world." — Professor T. N. Carver, Harvard Economist.

8. One of three forms of old-age pensions is in operation in most countries: (1) the voluntary savings type, under which an individual puts away every week in one of the postal savings banks of the government a certain amount of money which is supplemented by a government contribution. The individual cannot use his savings until he attains a specified age.

(2) The compulsory contributory form in which each workingman is

compelled to contribute a part of his income to the national fund. The employers contribute a like amount, and the government contributes a third portion.

(3) The noncontributory form, which means a straight pension paid by the government.

Which of these three forms of old-age pensions do you prefer? Which are the States of our Union adopting?

9. Do you prefer the California law which bars one from an old-age pension because he has \$3000 worth of property; the Montana law which debars one who has an income of \$300; or the Massachusetts law that allows the local and State authorities to decide who shall be pensioned and the amount of the pension?

10. Representative Sirovich introduced a bill in Congress designed to have the National government give money to any States that will match it for old-age pensions. Would you vote for or against this bill? Why?

11. The Massachusetts Old-Age Pension Act of 1930 directed the State Commissioner of Corporations and Taxation to recommend some form of taxation on amusements, proprietary articles, and luxuries instead of an additional tax on property. Do you see any connection between expenditures for amusements and luxuries and old-age pensions?

12. Do you think our National, State, and local governments should employ more people to make wider and better roads, to coöperate with the railroads in eliminating grade crossings, to build nation-wide easy-grade non-cross non-stop boulevards, to drain swamps, to irrigate deserts, to build great power projects, to make State parks, playgrounds, swimming tanks, gymnasiums, and golf links? Or instead of the necessary taxes for these projects should capitalists keep their money for building factories, experimental laboratories, etc.? Or do you think both can be accomplished?

13. Does the Government owe you a job? In other words, is the Government indebted to you or are you indebted to the Government?

14. Some English cities lend money for home building at about one half the rate of interest charged in America by building-loan associations. Do you think our cities, States, or the United States should borrow money and lend it to home builders at cost, provided the home seeker owns the lot and 10% of the value of the house?

15. Do you think your State should attempt to prevent strikes and lockouts by a compulsory arbitration law?

CHAPTER XXX

DEMOCRACY AND CITIZENSHIP

Government and Law Indispensable. — Civilization dawned when men learned to live together peaceably and in order under the jurisdiction of government and laws. The darkest chapters in history are those that recount the suffering of men in periods of anarchy such as overwhelmed Europe after the strong arm of Roman law became weakened. Poor government and poor laws are better than no government and no laws.

Democracy,¹ the Highest Form of Political Organization. — We believe that democracy represents the highest form of political organization. The monarchic and aristocratic forms of government, however, had their places in the world. They maintained a rule of law which promoted the “life, liberty, and pursuit of happiness” of men during trying times and before the masses had acquired the social intelligence and the experience to embark on the adventure of self-government. Government *for* the people did not originate with democracy. Government *of* and *by* the people are the new principles it introduced.

The Advantages of Democracy. — It may be well to examine briefly some of the advantages of democracy.

(1) The people are the best guardians of their own liberty and happiness. In a monarchic or aristocratic government there was always a temptation for those responsible for government to put their own interests above the interests of those they governed. Then, too, it was not always easy for even a con-

¹ By *democracy* we mean that form of government in which the sovereign power is in the hands of the people collectively, and is expressed by them either directly or indirectly through elected representatives.

scientious ruling class to know exactly where the best interest of the people lay. They did not suffer from their own acts of misgovernment.

In a democracy this is not true. There is an identity of interest between the governed and the governors. An act of misgovernment will be corrected because it reacts unfavorably upon those responsible for altering it.

(2) Democracy improves the individual. The responsibility imposed in a self-governing community stimulates initiative and ambition.

A prerequisite of democratic institutions is a high standard of general social intelligence and morality. Monarchy and aristocracy can get along on a very low standard. Democracy has recognized this fact and has fostered such educative agencies as free public schools, free press, and freedom of speech.

(3) Democracy tends toward international peace. Many of the wars of the past were instigated by dynastic ambitions and jealousies. The people's part was to suffer. It has been asserted that there will be no war in the future if the people reserve to themselves absolutely the right to declare war by plebiscite. Some have advocated a popular referendum on war as the surest guarantee of international peace.

Our Debt to the Past. — Theodore Roosevelt said that the only safe progressive is the man who can look far into the past. A social institution is like an iceberg with a big proportion of its total volume submerged in the past out of the vision of the casual observer. History reveals the great underlying, stabilizing forces that operate unseen.

American institutions have drawn heavily upon the past. To quote James Bryce, "The American Constitution is no exception to the rule that everything that has the power to win the obedience and respect of men must have its roots deep in the past, and that the more slowly every institution has grown so much the more enduring is it likely to prove. There is little in this constitution that is absolutely new. There is much that

is as old as Magna Charta." The indirect method of electing a president in which the framers of the Constitution took great pride, because it was original, worked only once as intended by its authors.

The French Revolutionists created two political systems under the Constitutions of the years I and III based on plausible theories unsupported by precedent. Neither succeeded. Bolshevism in Russia and other parts of Europe is now attempting to build an Utopia through an artificial and untried religious, political, and economic organization.

What of the Future of Democracy? — Forms of government have risen, had their day, and passed. Absolute monarchy and feudalism are known only in history. The enlightened world has adopted democracy as the type of political organization best adapted to man's progress and happiness. So far it has fulfilled its mission, maintaining peace and order at home and security from enemies abroad. Science and invention with great material prosperity have followed in its wake. With so fair a past what may the prospect for the future be?

No government can rise higher than its source. In a monarchy that source is a king; in an oligarchy, it is a ruling class; in a democracy, it is the people themselves. The future of democracy rests with the people. The issue will be determined by the quality of their citizenship.

Citizenship in a Democracy. — Our citizenship in a democracy carries with it many privileges. It guarantees to us liberty to live our lives without burdensome, arbitrary restrictions. We may speak our thoughts freely, worship as we please, and hold our property free from fear of confiscation or invasion.

The liberty we enjoy, however, is a liberty under law. Like any form of government democracy is dependent upon law and law enforcement for its life. We all pride ourselves on the part we have in the making of the laws under which we live. Are we as ready to accept our responsibility for law enforcement?

There is a difference between obedience to law and respect



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for law. No government can endure unless there is obedience to law. This must be secured at any cost. Kings and oligarchies gained it through fear of the consequences of disobedience.

Respect for law is deeper than obedience to law. It implies an attitude of mind which comprehends the full significance of law and the relation of each individual to it. It acknowledges, too, a responsibility to observe the law in good faith whether it is approved or not approved. There is a question whether democracy can be as successful as older forms of government in enforcing obedience to law. It should be far more successful in promoting respect for law and out of this should grow an obedience to law much more effective than any slavish compliance based on fear.

Respect for law must be built up in the American people until it becomes a National virtue. If this can be accomplished, the success of the experiment which the founders of our nation began and the builders have thus far "so nobly advanced" will be assured. Ready compliance with the requirements of the Selective Service Act during the World War was indicative of progress in comparison with the violent opposition to the draft during the Civil War.

There are some signs not so encouraging. Decisions of the courts, especially of the Supreme Court of the United States, are sometimes met with demands, from those who disapprove of their findings, that the courts be abolished or shorn of many of their powers. A wave of lawlessness has swept over the country as far as observance of the Eighteenth Amendment to the Constitution is concerned. No matter what the differences of opinion on prohibition are, the fact remains that the prohibition amendment was written into the constitution in the regular way by a two-thirds majority vote in Congress and ratification by three fourths of the States. It is law and as long as it is law the duty of an American citizen is to obey it. In a democracy we have freedom of choice in the making of laws; not in the observance of laws after they are made.

Personal Liberty. — In creating the American Union it was found necessary for each State to surrender some of its independence, some of its liberty. If each State had demanded full and complete liberty of action, it is obvious that there could have been no Union. And everybody will surely agree that the security, peace, economy, and freedom of trade in forty-eight States, resulting from Union, amply justify the yielding of a small amount of liberty by each State.

In like manner, the welfare and the prosperity of the community are of sufficient importance for each individual to be willing to surrender somewhat of his liberty, somewhat of his independence, to secure the desired end.

Suffrage and personal liberty are inconsistent in a socialized democracy. If a majority of votes can compel those who are industrious and frugal to contribute to free schools, free libraries, free hospitals, free orphanages, widows' pensions, and old-age pensions for the poor, shouldn't a majority have a right to compel children to attend school, to forbid reckless driving, and to forbid the sale of intoxicating liquors and narcotics which tend to bring on accidents, orphans, incapacity, and poverty?

In the jungle the tiger has no right to impose restrictions on the lion, but in the socialized society where some are compelled to pay taxes for the welfare of all, is it not reasonable to require others to conform to conduct which will contribute to the general welfare?

Law and Order. — A recent President of the United States made the following clear statement as to the importance of law enforcement and law observance:

"Laws, of course, represent restrictions upon individual liberty, and in these very restrictions make liberty more secure. The individual surrenders something of his privilege to do as he pleases for the common good, and so organized society is possible. It is successful just about in proportion as laws are wise, as they represent deliberate and intelligent public opinion, and as they are obeyed. Civilization had to travel a long way

before it came to be commonly accepted that even an unwise law ought to be enforced in orderly fashion, because such enforcement would insure its repeal or modification, also in orderly fashion, if that were found desirable.

"I do not see how any citizen who cherishes the protection of law in organized society may feel himself secure when he himself is the example of contempt for law. Clearly there is call for awakened conscience and awakened realization of true self-interest on the part of the few who will themselves suffer most when reverence for law is forgotten and passion is expressed in destructive lawlessness. Ours must be a law-abiding republic, and reverence and obedience must spring from the influential and the leaders among men, as well as obedience from the humbler citizen, else the temple will collapse."

Presidents Coolidge and Hoover on Law and Order. — President Coolidge first came into national prominence through his watchword "Law and Order." A fifth of President Hoover's inaugural address was devoted to law and order. He said, "Our whole system of self-government will crumble either if officials elect what laws they will enforce or citizens elect what laws they will support."

In a speech to representatives of the press President Hoover pointed out that the press plays a dominant part in creating the attitude of the individual to the law. "It is almost final in its potency to arouse the interest and consciousness of our people. It can destroy their finer sensibilities or it can invigorate them. If instead of the glamour of romance and heroism which our American imaginative minds too frequently throw around those who break the law, we would invest with a little romance and heroism those thousands of our officers who are endeavoring to enforce the law it would itself decrease crime. Praise and respect for those who properly enforce the laws would help."

On another occasion Mr. Hoover made this prophetic statement: "Law is the force that holds civilization together."

OLD PERSONAL LIBERTY AND THE PRICE OF NEW CIVIL LIBERTY

PERMITTED YOU TO		WILL FREE YOU
remain ignorant. go as fast as you could through mud- holes and rocks. spend a fortune to be elected. broadcast unrestricted. issue railroad passes to legislators, newspaper men, etc. monopolize an industry. own a slave or work an orphan 14 hours a day. sell milk from tubercular cows. expose yourself to microbes. expose others to microbes. rent microbe-infested rooms. buy habit-forming drugs. drink anything that pleases sensa- tions. die. In 1900 16% died under 1 year of age.	Compulsory education Traffic regulations Corrupt practices acts Restriction of broadcasting licenses Statutes forbidding or limiting free passes Anti-Trust laws 13th Amendment and labor laws Compulsory killing of such cows Compulsory vaccination Compulsory quarantine Compulsory fumigation Narcotic prohibitions Alcoholic prohibitions Law observance	from superstitious fear. from speed maniacs on smooth- paved roads. to run for office without wealth. to enjoy radio without interference. to ride without paying another's fare. to buy at competitive prices. from slavery or slave-like condi- tions. from tuberculosis. from microbe enemies as cruel as Apache Indians. from the coils of pythons. from chains of expensive habit; or from delirium tremens. to live. Now only 8% die under 1 year.

Crime: Causes and Proposed Remedies. — William J. Burns estimated the financial loss in the United States from criminal dishonesty to be nearly \$4,000,000,000 annually, and some authorities place the direct and indirect cost of crimes of all kinds as high as \$10,000,000,000. In the United States there are nearly 10,000 homicides annually, whereas in England and Wales there are only about 150.

The crime tide has been swelling in the United States since the beginning of this century, and the following causes and proposed remedies deserve careful attention.

Inadequate Religious Training. — Ex-President Coolidge said: "I can conceive of no adequate remedy for the evils which beset society except through the influence of religion." Let us revive the religious character of the Sabbath; give adequate support in time and money to religious institutions, including week-day religious schools supported by each sect near the public school; and select public school teachers who will stimulate the young to right conduct.

Breaking Down of the Home. — R. W. Child, author and diplomat, discovered that in three correctional institutions investigated, 80% of the boy and girl inmates came from split homes. He said, "Bedrooms of some homes are used, but the sitting-room and library, and sometimes the dining-room too, wouldn't be missed. We used to have a motto: 'God bless our home'; now it's 'Let's go!'" Let us reduce the causes of divorces, encourage suburban homes by cheap rapid transportation, and encourage capital to invest in attractive inexpensive homes for sale on easy terms.

City Slums. — The Wickersham commission found that juvenile crime increases as you approach the business center of a city. Here are old crowded houses occupied by a mixed population which is poor and shifting, and hence cannot support neighborhood institutions. Here is where "gangs" are formed.

In Kips Bay, New York City, the Children's Aid Society reduced juvenile crime one half by a well-conducted boys' club.



© Barron Collier, Inc.
POSTERS USED IN NEW YORK BY BARRON COLLIER TO TURN YOUTHS FROM A CAREER OF CRIME.

Literature of Discontent. — Mr. Child says, "This literature of discontent depicts enslaved souls who break their bonds of drudgery, jump all moral fences, and land in that proverbial next pasture which always looks greener to the jackass." Let public schools and public libraries taboo this type of novel.

Moving Pictures Suggesting Improper Adventure. — Judge G. W. Martin of Brooklyn said, "Many of these pictures glorify crime or depict the rotten trail of sensuality. It is sought to justify their exhibition on the explanation that they point a moral. As sensible would it be to drag a child through fire to teach him about heat." Obscene literature is excluded from the mails, and improper pictures should be censored and kept from the screens.

Antiquated Criminal Laws and Administration. — Let us bring about the reforms that have been advocated by the National Crime Commission. (See page 490 for a summary of this commission report.)

Economic Necessity. — Benjamin Franklin said, "It is difficult for an empty bag to stand upright." Let us encourage an incentive-producing system of profit sharing, workmen's compensation, widows' pensions, etc.

Indiscriminate Sale of Pistols and Cartridges. — An American Bar Association committee reports that 90% of the murders in the United States are committed with pistols. Let us forbid carrying concealed weapons without a license; increase the penalty for crimes committed by persons carrying a weapon; keep a record of all pistols sold; and impose a penalty for carrying a weapon with the identification mark changed or obliterated.

The Long Ballot. — A recent Chicago ballot contained about 400 names. Criminals have more time to work for the election of friends than have honest working people. Let us have more appointive officials chosen for longer terms and separate elections for local, state, and national officials.

Crime Trusts. — In 1914 a committee of the Chicago City Council reported that the greater part of stealing was done by organized thieves, a "Crime Trust" with roots extending through the police force, the Bar, the public prosecutor's office, bondsmen, and political officials. Let us have unofficial national, State, and local crime commissions backed by service clubs, churches, insurance companies, etc., to keep the spotlight on crooks and corrupt officials; also official identification bureaus to trail criminals.

Tempting Opportunities. — Let us keep movables under lock and valuables under guard; and always transfer valuables with the greatest secrecy.

Mental Defects or Inferiority. — Insane people, kleptomaniacs, and morons unable to compete under complex urban conditions commit crimes. We should endeavor to remove the causes of insanity, apply the laws of eugenics, and salvage as many prisoners as possible. The criminologist would have all prisoners brought to a receiving station and assign the feeble-minded to one institution, the insane to another, those with curable disorders to another, those with normal minds to a trade-school institution, and the aged to a farm institution.

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 National Commission on Law Observance and Enforcement Reports, 1930–1931. Nos. 1 and 2, prohibition; 3, criminal statistics; 4, prosecution; 5, deportation; 6, child offenders; 7, Federal courts; 8, criminal procedure; 9, penal institutions; 10, crime and the foreign born; 11, lawlessness, in law enforcement; 12, cost of crime; 13, causes of crime (2 Vols.); 14, police.

QUESTIONS ON THE TEXT

1. When did civilization dawn?
2. Did government for the people originate with democracy?
3. What are the advantages of democracy?
4. Why do most people not see the trend of social institutions?
5. Upon what does the future of democracy depend?
6. In a democracy, if it is to last, have people a freedom in the observance of laws?
7. Explain the price we must pay to pass from the old personal liberty to the new civil liberty.
8. What is the cost of crime in the United States? How many homicides are committed annually? Since when has crime increased?
9. What are the causes of crime in the United States? The remedies?

QUESTIONS FOR DISCUSSION

1. In 1913 the Interstate Commerce Commission found a small railroad issuing 22,255 passes, of which 16,580 went to legislators and other public officials and 1310 to newspaper men. Is this anybody's business? Why?

2. Is it anybody's business how much money I spend in running for office if I spend it honestly?

3. State your reasons for agreeing or disagreeing with the following statements regarding crime:

"It is the duty of our citizens to give effective aid to the forces of law. The reluctance to give information, to volunteer testimony, to give unflinching service as witnesses in criminal trials, and to accept and fulfill service as jurymen has done no end of damage to the effectiveness of our law enforcement."

"Some Americans have a feeling that criminals should not be discovered by secret service methods. Why not? Does one condemn an army officer for using strategy? Wouldn't the American public be dunces to allow organized crooks to outwit them?"

"A criminal who was about to be caught in a bank robbery knew that under the circumstances the legal penalty was life imprisonment. The State did not have capital punishment, therefore he deliberately took the chance to get away by killing. For a habitual criminal the penalty acts as a price tag on crime. Even a moron can read it."

"Sob sisters and sob brothers are brides and bridegrooms of crime, for in lamenting the criminals they are the aides and abettors of crime. I would ask the sentimental sympathizers with willful criminals — especially murderers — to go weep in the cemeteries where the victims

lie instead of in jail. But all punishment is relative. No one likes capital punishment any more than he likes a surgical operation, but when, as in Chicago, six policemen die for every murderer hanged, the relativity needs some Einstein to adjust it. In Great Britain, where there is prompt and drastic punishment, crime is deterred, and they do not bury lawbreakers in silver coffins either."

"Our life prisoners should be exiled to a distant island as is done by certain European countries."

"Discovery of abnormality in a man is not a reason for shortening his sentence or letting him go; it is an additional reason for committing him for safe keeping."

"Psychopathic research to date seems to have arrived merely at diagnosis; until it finds remedies, other methods of discouraging crime must be used."

"The use of aircraft in the commission of any crime should make it a felony."

4. Judge Talley pointed out that movie and theatrical productions before they reach Broadway are shown the prisoners at Sing Sing; that they have a theater; that they enjoy professional baseball games on Saturday and Sunday; and that they work on an average of only three and a half hours a day. Do you consider this practice calculated to reduce crime?

5. Would it be just to hold parents responsible for the crimes committed by young people of high school age?

6. It is said that one criminal lawyer, famous as an adroit defender, has saved no less than 103 defendants from the gallows and the chair. Do you consider that he has performed a service or a disservice for society?

7. If an attempt were made to exhibit in this country a bullfight as it is known in Spain or Mexico, ought the authorities to interfere?

8. A great industrial leader sits in his limousine on his way to his country estate condemning lawbreakers, but his limousine is running ten miles an hour faster than the law allows. An anarchist complains that capitalists are selfish exploiters of labor who violate the corrupt practices acts to dominate the government, so he assassinates a few of the leaders. The bootlegger complains that the hijackers are a lot of cutthroats, but he violates the Volstead Act. The merchant complains that he cannot get honest clerks, but he does not report all of his intangible property for taxation. By what method only can we hope to enjoy and perpetuate the benefits of the law? If I think a certain law is unwise, what rights have I to help bring about its repeal?

9. Senator Borah says: "The hot bed, the scouting, the noisy rendezvous of lawlessness, of cynical defiance to the Eighteenth Amendment, is among those of social standing, of large property interests, and in the wealthy homes. Without their patronage, their protection, and their example, the bootlegger could easily be brought within control of the law. I am thoroughly in sympathy with their anxiety over the foreign influence on the Constitution by Reds and Radicals, but I must say in all sincerity that just to the extent that they undermine respect for the Constitution, respect for law, by the lives which they lead and the example which they set, and by the influence which they exert against the Eighteenth Amendment, just in that proportion, to that extent they are also undermining those provisions of the Constitution which protect property. The Eighteenth Amendment is in the Constitution by the same authority as the Fifth Amendment, which throws its protection around life and property. The undermining of one undermines the other. The Eighteenth Amendment is in the Constitution by the same authority and with the same sanctity as the Fourteenth Amendment, which stands between the State and the property holder against all assaults by the State. That which undermines the Eighteenth Amendment undermines the Fourteenth Amendment. The Red sits in a darkly lighted room around his poorly laden table, and denounces the provisions of the Constitution placed there to protect property. The White sits in his brilliantly lighted room about his richly laden table and defies or denounces the provisions of the Constitution placed there in the belief that they would protect the home. I leave it to all good citizens whether it is not true that both are traveling the road of lawlessness, both sowing the seeds of destruction, both undermining the whole fabric of law and order."

What does the fifth Amendment say about property? The fourteenth? How does the phrase "selective anarchy" apply to the above statement? Is selective anarchy as dangerous a theory as complete anarchy?

10. Explain the following quotation from Abraham Lincoln:

"Let every man remember that to violate the law is to tear up the charter of his own and his children's liberty."

11. The Baumes Anti-Crime Laws, enacted by the Legislature of New York in 1926, forbid City Magistrates to grant bail in felony cases; require a finger print of the accused before any judge can grant bail; prevent delaying appeals when the accused is out on bail; and forbid appeals without merit. They increase the punishment when a felony is committed by a person while armed with dangerous weapons; increase the penalty for second conviction of felony to the maximum or

twice the maximum term; and make a life term the minimum punishment for the fourth conviction. For murder a death sentence may still be imposed. These laws prevent the parole of life prisoners; make the receipt of any amount of stolen property a felony; and require every physician attending a person with a wound or powder burn to report the case to the police.

In 1927 the National Security Company announced that these laws had reduced theft and burglary 25 per cent.

If jurors should consider these laws too severe, would they be enforced? Does your State send first offenders to the same prison as fourth offenders? If you were sane and a third offender, would you remain in New York for your fourth crime? (For a summary of the Baumes Laws see World Almanac, 1927.)

X CHAPTER XXXI

IMMIGRATION AND NATURALIZATION

The Right of Congress to Control Immigration. — It is an accepted principle of international law that every sovereign nation has the power to regulate immigration, because it is essential to self-preservation. The exercise of this power in any particular country is governed by the Constitution and statutes of the country. In the United States it belongs to the National government and is a part of its power to regulate foreign commerce. In Article I, Section 8 of the United States Constitution, Congress is expressly granted authority to regulate foreign commerce. The Supreme Court considers the immigration of people to be foreign commerce; therefore Congress has power to regulate immigration to the United States.

Period of Unrestricted Immigration. — For half a century after the formation of our Union immigrants were welcomed, but by the middle of the last century a certain amount of economic and religious friction developed which was expressed in the anti-alien "Know-Nothing" movement of the fifties. During the period of unrestricted immigration political upheavals, religious persecutions, or the praiseworthy desire to come to the land of opportunity brought to the shores of the United States millions of excellent citizens. But our policy of unrestricted immigration also brought those who could not survive in the competition of overpopulated countries, and in too many cases we became the dumping ground for such undesirables. More than one European community bought tickets to America for their common "bums."

Exclusion of Undesirable Classes. — During the several decades preceding the World War, Congress banned one undesirable class after another, until now the following are excluded :

- (1) Idiots, feeble-minded or insane persons, epileptics.
- (2) Chronic alcoholics, paupers, vagrants, personal beggars.
- (3) Persons with tuberculosis or other dangerous contagious diseases.
- (4) Persons with physical defects affecting their ability to work.
- (5) Persons guilty of crime involving moral turpitude.
- (6) Persons who practice or advocate the practice of polygamy.
- (7) Immoral women or persons encouraging immorality.
- (8) Laborers induced to come by contract or advertisements abroad.
- (9) Persons likely to become a public charge.
- (10) Anarchists or persons who teach opposition to organized government.
- (11) Persons who advocate the killing of officials.
- (12) Persons who advocate the destruction of property — sabotage.
- (13) Members of organizations that encourage practices of Nos. 10, 11, 12.
- (14) Adults unable to read any language.

Exclusion of Racial Groups. — After the gold rush of 1849, Chinese came to California in great numbers. They differed from Americans in color, religion, language, and habits ; and because of their lower standards of living they could afford to work for lower wages than white laborers. Race riots, starting in San Francisco, spread to other States, and raised the issue of Oriental immigration.

The Pacific Coast States attempted to regulate immigration themselves, but their laws were declared in conflict with the Constitution of the United States. But in 1882 Congress enacted a law excluding skilled and unskilled Chinese laborers.

In the Exclusion Act of 1917 Chinese were not named, but all natives of Asia east of Persia and south of Siberia including the islands adjacent to southern Asia, except the Philippine Islands, were excluded. Japanese and Koreans were not excluded because Japan had previously agreed not to grant passports for the United States to coolies (laborers) from Japan or Korea.

The exclusion of Chinese encouraged the Japanese to come. As most of these remained in California, an acute racial problem developed which resulted in mob violence. Thus an international problem developed. In 1907 President Roosevelt and Japanese statesmen entered a Gentlemen's Agreement whereby passports were not to be granted to the coolie class. Before this time only Japanese men had come in appreciable numbers, but to supply wives for the Japanese men already in the United States many "picture brides" were granted passports from year to year and large Japanese families were being reared in California.

The agitation for the exclusion of Japanese as well as other Orientals continued, and in 1924 all persons ineligible to citizenship¹ were excluded from the United States by Act of Congress.² As all Orientals are ineligible to citizenship, the Japanese and Koreans were excluded by this Act of 1924.

Exclusion by Limited Quotas. — From 1882 the United States excluded one undesirable class or racial group after another. But in spite of these various restrictions the number of immigrants rose to about a million annually during the years just preceding the World War. Following the War, Congress placed an additional restriction on mere numbers.

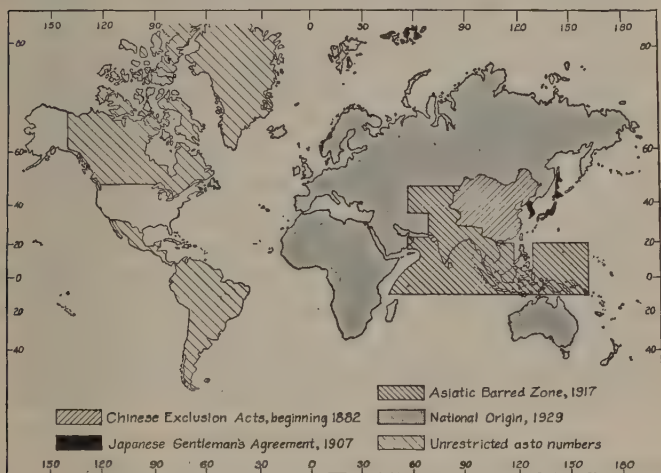
The 1920 census showed 14,000,000 foreign-born people in the United States. Nearly half the population of some cities

¹ Only Caucasians and persons of African descent can become citizens of the United States by the judicial process of naturalization, therefore all Orientals are ineligible to citizenship except by birth or naturalization *en masse*.

² Oriental officials, temporary visitors for travel or trade, ministers and professors with their wives and children, and students are still admitted.

was foreign-born, and from 20 to 30 per cent of the population of eleven States was foreign-born. Furthermore, it was estimated that 2,000,000 aliens were planning to migrate to the United States in 1922. Realizing that this rapidly increasing influx of peoples with other languages and customs could not be absorbed without endangering our social organization, Congress, in May, 1921, hastily passed an emergency Immigration Act for one year.]

Exclusion by Percentage Quota. — This 1921 Immigration Act provided, "That the number of aliens of any nationality who



GRAPHIC HISTORY OF IMMIGRATION LEGISLATION.

may be admitted under the immigration laws of the United States in any fiscal year shall be limited to 3 per cent of the number of foreign-born persons of such nationality resident in the United States as determined by the United States census of 1910." In May, 1922, the Act was extended for two years; and in 1924 Congress further restricted the number of immigrants to be admitted annually by reducing the quota per-

centage) from 3 per cent to 2 per cent, and it shifted the year for determining the respective national quotas from 1910 to 1890. This shift decreased the quotas of southeastern Europe especially.

The Exclusion by National Origin Quota. — The 1924 quota plan of 2 per cent was applied to immigrants for five years ; but since July 1, 1929, the annual quota of any nationality for each fiscal year has been a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin bears to the total number of inhabitants in continental United States in 1920, but the minimum quota of any nationality is 100. This means that we admit only about 150,000 quota immigrants each fiscal year plus 4000 from the 40 countries which have a quota of only 100 each.¹

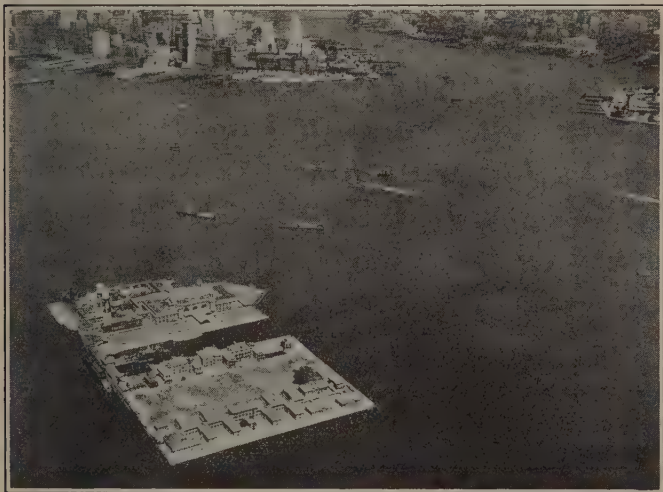
Non-Quota Immigrants. — Though only about 150,000² quota immigrants are admitted annually, many non-quota immigrants also enter the country annually because the Immigration Act of 1924 admits the following unrestricted as to numbers : (1) persons, except Orientals, born on the American continents, in Cuba, Haiti, or Santo Domingo ; (2) aliens returning from a visit to their native country ; (3) American widows (through death of husband or divorce) who lost their citizenship by marrying an alien before the citizenship Act of 1922 ; (4) alien wives or husbands of American citizens ; (5) unmarried children under 21 to join parents who are citizens of the United States ; (6) preachers and professors and their unmarried children under 21 ; (7) students at least 15 years of age, including Orientals ; and (8) merchants who are granted the right by treaty — *e.g.*, Chinese and Japanese.

¹ The quota of 100 from a country whose inhabitants are not eligible to United States citizenship must be persons of Caucasian or African descent who have somehow become citizens or subjects of that country.

² The exact present quota is 153,714. The statisticians who had to figure out the respective national quotas under the National Origin Law assigned quotas totaling 149,714 and then added the minimum quota of 100 to forty nations.

Of the 97,139 alien immigrants who came to the United States in 1931, 21,139 came as natives of non-quota countries; 17,264 as husbands, wives, and unmarried children of United States citizens; and 4618 as ministers, professors, women who had been American citizens, and other miscellaneous classes.

Purpose and Working of the National Origin Law. — The purpose of the National Origin Law, which was passed in 1924



ELLIS ISLAND.

Fairchild Aerial Surveys, Inc.

Here in New York Harbor is the island immigration station where immigrants may be detained until they can prove that they are eligible to enter the country.

and put into effect in 1929, was further to restrict the total number of immigrants and to give preference to the nationalities that have kinsmen in the United States. It was thought that kinsmen could best train newcomers for citizenship. But because this law greatly restricted immigration of the Nordic stock, and slightly increased Mediterranean quotas, it has been humorously said that Uncle Sam prefers brunettes.

Germans, Norwegians, Swedes, and other northern groups favor the repeal of the National Origin Law because they wish entrance to the United States for their kinsmen or because they believe America should be an asylum for persons religiously, politically, or economically oppressed or socially ostracized.

Such sociologists as Ross of Wisconsin and Fairchild of New York, and such economists as Carver of Harvard and Commons



SOCIAL SERVICE HALL AT ELLIS ISLAND.

Wide World.

Here detained immigrants are allowed to meet their friends.

of Wisconsin and Fisher of Yale, urged the passage of the National Origin Law. These scientists believe that only by immigration along this line can the homogeneity of our civilization be secured, and that without such basic homogeneity our civilization cannot have its best development.

How Immigrants Enter the United States. — Every alien immigrant seeking to enter the United States must go before an American consul and obtain from him a visa establishing his apparent right to enter the United States, subject to a further

examination at the port of entry. The law requires consuls to deny visas to aliens who, upon examination, are believed to be inadmissible to the United States under any of its laws. A visa fee of \$10 is collected by the consul in addition to the \$8 head tax collected at the port of entry.

To make the examinations conducted by consuls more effective than formerly, our consuls in immigrant countries have been supplied with trained immigration officers and with physicians from the United States Public Health Service. The number of immigrants denied admission at the port of entry is negligible; and we now avoid the expense and irritation of sending hordes of immigrants to Ellis Island for examination. Necessary examinations can now usually be conducted on ship board.

The steamship company that brings immigrants is required to return to the port of embarkation any alien that may be rejected at the port of entry.

COUNTRIES	INWARD	OUTWARD	DECREASE
Canada	21,687	2,735	—
Italy	13,399	2,410	—
Germany	10,401	3,369	—
Irish Free State	6,121	1,556	—
England	4,825	4,588	—
Poland	3,604	2,119	—
Scotland	3,395	2,860	—
Mexico	3,333	14,442	—
West Indies	2,496	3,742	—
Czechoslovakia	2,016	1,331	—
France	1,830	1,978	—
Greece	1,763	753	—
Sweden	1,298	1,583	—
Norway	1,280	1,437	—
Northern Ireland	1,184	552	—
China	1,150	3,375	—
Other countries	17,357	13,052	—
Total Immigrant Aliens	97,139	61,882	—
Non-immigrant Aliens	183,540	229,034	—
United States Citizens	439,897	446,386	—
Total arriving	720,576	departing 737,302	16,726

X **Immigration Statistics.** — For the fiscal year 1931 there were 16,726 more people who legally departed from the United States than entered. The table on the preceding page shows from whence they came and whither they went.

1931 was the first year since the Civil War that immigration to the United States fell below 100,000.

The following statistics show a comparison of the annual inflow of immigrant aliens to the United States for recent years :

COUNTRIES	1924	1926	1928	1930	1931
Total . . .	706,896	304,488	307,255	241,700	97,139
Germany . . .	75,091	50,421	45,778	26,569	10,401
Great Britain . .	59,490	25,528	19,958	31,015	9,110
Ireland . . .	17,111	24,897	25,268	23,445	7,305
Italy . . .	56,246	8,253	17,728	22,327	13,399
Canada . . .	200,690	91,019	73,154	63,502	21,687
Mexico . . .	89,336	43,316	59,016	12,703	3,333
All other . . .	208,932	61,054	66,353	62,139	31,904

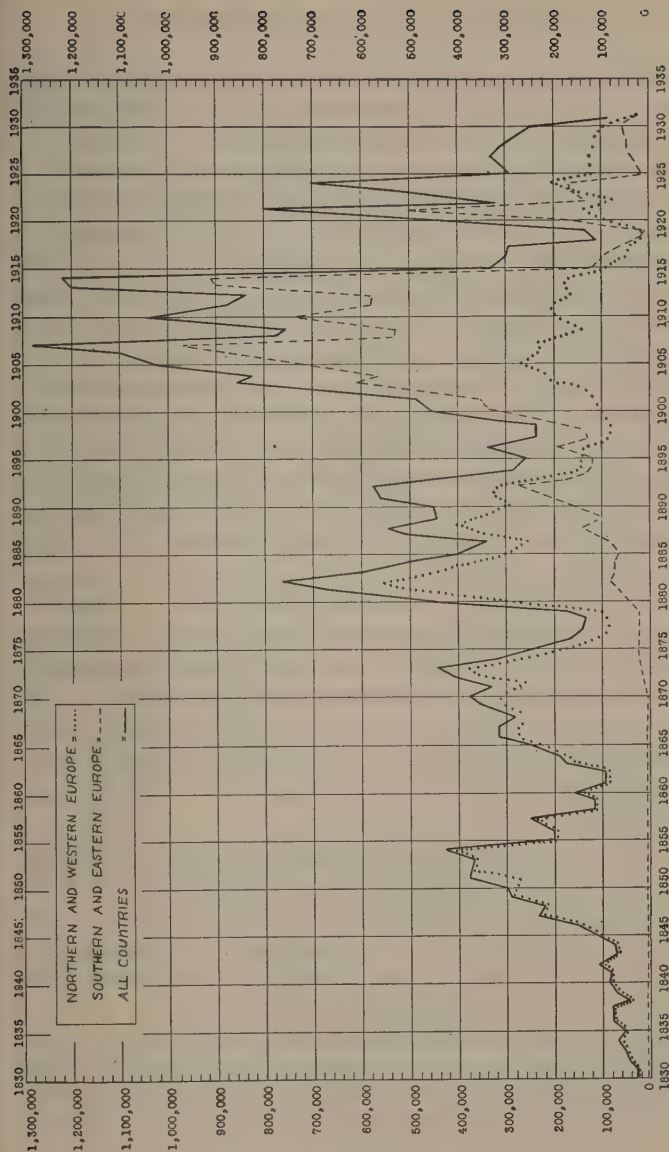
Deportation of Aliens. — However undesirable a citizen of the United States might be he cannot be deported; but aliens can be deported for various offenses :

(1) *Entering the United States Illegally.* — Those who enter with false passports, “waddies” who wade across the Rio Grande, Canadians who fly in at night, or slip across the border without passports are persons of low moral code. Having entered illegally they are viewed as a menace and may be deported.

(2) *Committing Crime within Five Years.* — Even if aliens have declared their intention of becoming citizens they may be deported if they commit a felony within five years.

(3) *Committing Two Crimes before Becoming Citizens.* — Even if aliens have been in the country more than five years, but have not become citizens, they may be deported for having committed the second felony.

(4) *Having Been Convicted of a Crime or Moral Turpitude before Entering.* — Those who are known to have committed a



A CENTURY OF IMMIGRATION TO THE UNITED STATES.

crime other than very minor ones are not admitted to the United States; but if this fact is concealed when they enter and discovered afterwards, they may be deported.

(5) *Advocating the Overthrow of the United States Government.* — Those who come here to enjoy the benefits of our Government but spend their time advocating its overthrow may be deported.

Bureau of Naturalization. — The United States government maintains a bureau of naturalization. This bureau keeps records of immigrants and sees that those who desire citizenship may become naturalized according to law.

Three Ways of Becoming Citizens. — All persons born in the United States,¹ and subject to the jurisdiction thereof,² are citizens of the United States and of the State wherein they reside. Inhabitants of acquired territory are usually naturalized *en masse*. Congress determines who shall become naturalized and provides for the naturalization of individuals by the judicial process described below.

Who May Become Naturalized. — Only white persons and persons of African descent may now become naturalized according to the judicial process. The naturalization of a parent naturalizes the children under 21 residing permanently in the United States. Previous to 1922 the naturalization of the husband automatically made the wife a naturalized citizen,³ but not now.

¹ Children born abroad to citizens of the United States are natural-born American citizens, but must register their intention to remain such with an American consul when they arrive at the age of 18, and upon reaching the age of 21 must take the oath of allegiance to the United States.

² See Amendment XIV, note.

³ An alien woman must now become naturalized independently of her husband, but if her husband is a natural-born or naturalized American citizen she need remain in the United States only one year and she need not make a declaration of her intention.

A natural-born female citizen of the United States who lost her citizenship before 1922 by marrying an alien may file a petition for naturalization and become naturalized as soon as the naturalization examiner satisfies the judge that she was once a citizen of the United States.

Until 1922 an American woman who married an alien lost her American

In What Courts. — One may become naturalized in a United States District Court (and other Federal Courts) or in any State court of record having jurisdiction of cases in which the amount in controversy is unlimited.

Filing Declaration of Intention. — Any time after entering the United States an alien at least 18 years of age may file a declaration of intention to become an American citizen with the clerk of one of the above courts. This declaration contains various facts for identification, and an intention to renounce forever all allegiance to any foreign ruler or state and to become a citizen of the United States.

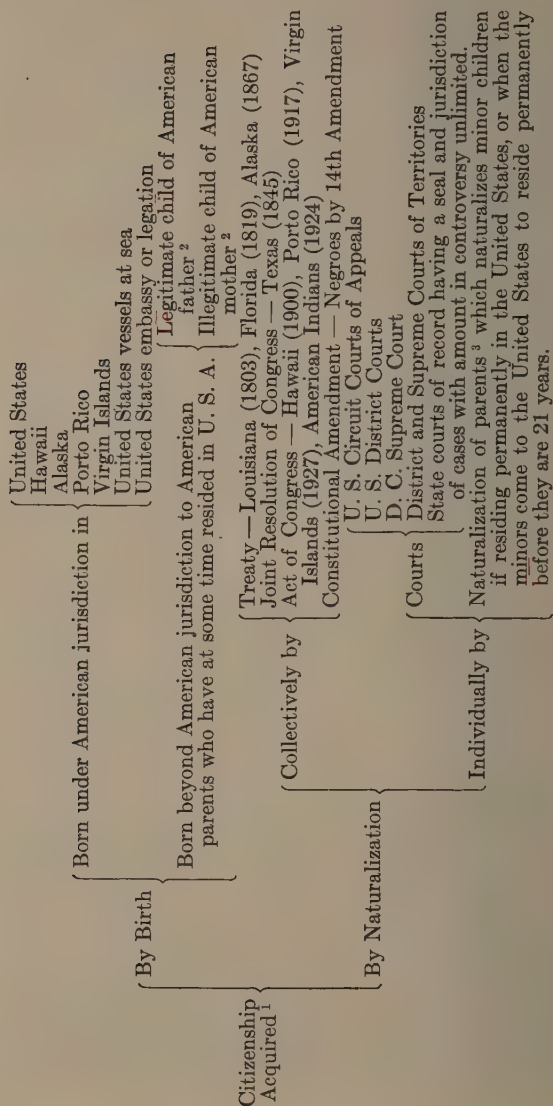
Filing Petition. — In not less than two years or more than seven after his declaration — and after five years' residence in the United States and six months in the county, the applicant files his petition for citizenship with the clerk. He states that he is not opposed to organized government, that he is not a polygamist, and that he renounces his allegiance to his former country.

Witnesses. — When the petition is filed, two credible American citizens must testify to the clerk of the court that they have known the petitioner to reside continuously in the United States during the last five years, that he has been a person of good moral character and attached to the principles of the Constitution of the United States. If part of the five years has been spent in another county, the petitioner might file depositions from other witnesses to cover that period.

Examination. — Formerly the judge conducted the examination. Now a United States District Judge may appoint a

citizenship, and an alien woman who married an American citizen thereby acquired American citizenship. To-day citizenship is neither lost by marriage (even to Orientals) nor acquired by marriage.

Any person born in the United States who lost his United States citizenship by naturalization in a foreign country but was readmitted to the United States for permanent residence prior to March 3, 1931, and is eligible to citizenship, may become naturalized in the United States in as short a period as six months.



¹ See Amendment XIV.

² Such children remaining outside the United States must at the age of 18 record at an American consulate their intention to become residents and remain citizens of the United States; and they must take an oath of allegiance when they become 21 years of age.

³ The naturalization of a father, of a widow, or of an unmarried mother bestows citizenship upon the minor children. If the father does not come to the United States, the naturalization of the mother bestows citizenship upon her minor children who are residents of the United States.

naturalization examiner. The examiner questions the applicant and witnesses and learns whether an applicant speaks English, has a reasonable knowledge of the Constitution and government, and fulfills all other requirements for citizenship. He then reports what he finds with recommendations to the District Judge. The examiner may also perform this service for State judges.

Granting Citizenship. — In not less than 90 days after filing the petition the applicant comes before the judge. The judge may ask a few questions or many, and when he is satisfied that all provisions of the law have been fulfilled, he directs the clerk to issue a certificate of citizenship.

The Cost of naturalization is from \$20 to \$40 plus the cost of photographs.

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QUESTIONS ON THE TEXT

1. Who has power to control immigration to the United States?
2. What types of immigrants have come from time to time?
3. What undesirable classes of immigrants are excluded?
4. What racial group is excluded?
5. Explain the 1924 Act providing exclusion of immigrants according to national origin.
6. What immigrants are admitted in addition to the national quotas?
7. Does the National Origin Law work to the advantage of northern Europe or southern Europe?
8. Explain how immigrants proceed to enter the United States.

9. What country has sent the most immigrants to the United States during the past decade?

10. Did more persons enter or leave the United States last year?

11. Explain how the flow of immigration to the United States has varied in numbers and locality during the past century. Explain some of the sudden shifts from your knowledge of history.

12. For what causes may aliens be deported from the United States? May citizens be deported?

13. Where in the Constitution is citizenship defined? By what two ways may it come? Who have obtained it collectively (*en masse*)? Give the steps by which citizenship is obtained individually?

14. Does a woman forfeit citizenship by marrying an alien unless she swears allegiance to the country of her husband?

QUESTIONS FOR DISCUSSION

1. Do you favor unrestricted immigration, immigration according to the 1924 quota law, immigration under the present national origin law, or would you still further restrict immigration?

2. It is said that great numbers of immigrants are "bootlegged" into the United States. If this is true, should we abolish the law or should we establish more extensive coast guard and border patrols?

3. Many European countries require all persons to carry identification cards. Would such a requirement of all persons in the United States assist in enforcing the immigration laws? Would you favor this requirement in the United States?

4. What effect does immigration have upon wages? Upon class distinctions? Upon disrespect for law? Upon the power of the political boss?

5. The exclusion of Japanese from the United States since 1924 has created an unfriendly feeling on their part because of discrimination. Some felt it so keenly that they committed suicide in protest. If Japan were brought under the quota law, like European nations, their quota would be only about 150 a year. Would you favor giving Japan the benefit of this quota arrangement? Would you favor extending it to all Orientals?

6. Since the exclusion of Japanese over 50,000 Filipinos have entered the United States unrestricted? Why? Are they citizens? Could Congress exclude them? Would it be just to exclude them without giving independence to the Philippines? How do Filipinos differ in language from other Orientals? In religion? In cultural background?

7. In what sections of the United States are the following immigrant

groups found in the largest numbers: Scandinavians? Germans? Irish? Italians? Greeks? Orientals? Which have settled largely on farms and which in cities?

8. Representative Johnson proposed that the United States admit from any American country three times as many immigrants as there are citizens of the United States who migrate to that country. Representative Box proposed that we admit from each American country yearly 3 per cent of the average number legally admitted during the five years preceding the enactment of the law. Would you vote in favor of either of these proposals?

9. Would you favor placing immigrants from American countries on the same quota basis as European countries, provided the restriction shall not apply to Americans who habitually speak the English language?

10. Some people criticize our present immigration law as putting more emphasis on quantity than on quality. Which of the following traits would you put the most emphasis upon: color, race, health, physical vigor, standards of living, technical skill, thrift, intellectual character, moral character?

11. When an applicant for citizenship is examined, he is usually asked this question: "If necessary, are you willing to take up arms in defense of this country?" When Professor MacIntosh of the theological faculty of Yale University was asked this question, he said that he would fight if he thought the war was morally justified. When Miss Bland, a Canadian nurse of the World War, was examined, she said that she would not bear arms under any circumstances, but that she would be willing to go into the front-line trenches and nurse.

The United States Supreme Court, by a decision of five to four, upheld the lower courts in denying citizenship to the above persons. The majority reasoned that while we all deplore war and work and pray to avert it, nevertheless in a representative government the laws made by the majority should be observed by all; that we destroy government if we allow each individual to decide whether a law or a war is just and refuse to uphold those which they do not approve.

The minority reasoned that the above test of citizenship would exclude conscientious objectors while admitting those of less moral character; and further, that one can serve as a loyal citizen in time of war in many ways besides fighting.

Would you have voted with the majority or the minority? Why?

12. In 1923 when Isadora Duncan, a dancer, sailed from the United States, she told the reporters that she did not like the United States and took occasion to deride American institutions. She married a Russian just before the Women's Citizenship Act of 1922 was passed.

The immigration authorities claimed that her statements justified forbidding her return to America. Could her return have been forbidden had she married the Russian subsequent to this Citizenship Act?

13. For the naturalization ceremonies the United States District Judge of Oregon held court upon the spacious stage of the Portland Municipal Auditorium which was walled on all sides with immense American flags. Grouped near the flag-draped judge's bench were the new citizens of Portland and America, their families, city, county, and State officials, and representatives of various patriotic organizations. An immense interested audience interrupted the proceedings frequently with enthusiastic applause. Stirring patriotic addresses by a minister of the gospel and the mayor, welcoming hand-shaking, and blood-tingling strains of *The Star-Spangled Banner* helped to make real Americans of those who had once been subjects of kings. Does your community give this warm welcome to new Americans?

CHAPTER XXXII

FOREIGN PROBLEMS OF THE UNITED STATES

LAND AND OIL PROBLEMS IN MEXICO

Indians Deprived of Commons. — There are few cities in Mexico ; most of the people live in some 15,000 small villages. Until the Diaz régime nearly all of these villages were surrounded by commons for pasture and small plots of land for cultivation.

During the administration of President Diaz (1876-1911) the owners of the surrounding estates either bought or merely inclosed, with or without the consent of the government, most of these commons.

Agricultural Lands Restored to Indians. — The Constitution of 1917 authorizes the legislature of each Mexican state to specify the maximum

amount of land any one individual may own. During the presidencies of Plutarco Calles and of Portes Gil, if an owner of an estate larger than the law permitted did not divide his estate in accordance with the law, the local agrarian commission recommended its purchase and restoration to the Indians.



HUMAN BEASTS OF BURDEN.

If the state governor, the national agrarian commission, and the president of Mexico approved the recommendation, the land was purchased. Most of this land was allotted to the Indians, but the Indians cannot mortgage or sell it. About 4% of the total area of Mexico, or nearly half of that cultivated, has been thus purchased.

The price allowed for this land was 10% above its tax assessment, which was very little, and it was paid for in government bonds which have practically no value. Many Americans claimed that their land had thus been practically confiscated, and the American Ambassador pressed their claims against the Mexican Government.

Land Restoration and System of Communal Lands Pronounced a Failure. — In spite of the arbitrary low prices paid for the land in bonds, the government created a debt of \$400,000,000 — a burdensome amount for Mexico if she ever attempts to pay it. And now Ex-President Plutarco Calles, one of the chief promoters of this land policy, and also President Pascual Ortiz Rubio, pronounce this system of Indian communal lands a failure. First, it drove capital from the country; second, sugar cane, coffee, tobacco, henequen, and bananas require capital, technical knowledge, and often years of waiting; third, production has fallen because the Indian has no capital or improved implements and is forced to farm with crude implements; fourth, the Indians are cutting the trees without restoring them; and fifth the best lands tend to fall into the hands of the new political and military leaders.

Because of the above evils the President had Congress amend the land laws in 1930. They now forbid the dividing of large haciendas such as sugar, coffee, dairy, or fruit plantations; and all seizures of private estates must be paid for in cash. This means that they cannot be taken to any appreciable extent, if at all.

Aliens Forbidden to Acquire Land on the Borders. — The Constitution of 1917 forbids aliens to acquire direct ownership

in lands or waters within a zone of 100 kilometers ($62\frac{1}{2}$ miles) from the frontiers and 50 kilometers from the seacoasts. An Act to carry this constitutional provision into effect was passed in 1925. Aliens owning lands previous to the passage of this Act may continue owning the land throughout their lifetime but their heirs are required to dispose of these lands within a period of five years.

Our State Department protested against this limit of five years because under this law no one can buy these lands but citizens of Mexico. As citizens of Mexico are not now financially able to pay much for these lands, the enforcement of the law will result in their being sold for less than their owners believe them to be worth. Some Americans are attempting to safeguard their border property by selling it to a Mexican at a nominal price and then taking a ninety-nine-year lease from him.

Nationalization of Sub-Soil Deposits. — Article 27 of the Mexican Constitution of 1917 vests the ownership of all mineral and petroleum deposits in the nation. In 1925 the Mexican Congress passed a statute to carry out these provisions, and amended it in 1928. Under this law, as amended, all mineral and oil deposits are forfeited to the nation unless operations to develop these deposits had begun before 1917. The 1925 law limited even the mineral rights of those who had begun operations before 1917 to fifty years; but under the influence of the late United States Ambassador Morrow the 1928 law made these rights indefinite.

Another grievance against the Mexican government by owners of oil lands is high taxes. Including a property tax, production tax, income tax, and export tax, there are twenty-odd taxes that affect the cost of producing oil in Mexico, making a total tax of about 20% of the value of the oil produced. As a result of these burdens, oil production in Mexico declined from 193 million to 60 million barrels in a decade.

Debt-Refunding Agreement. — After Mexico's inability to fulfill previous debt settlements with creditors — principally

Americans — a new agreement was reached in 1930. The creditors agreed to cancel interest amounting to \$211,107,944. The Mexican government agreed to pay the principal sum of \$274,669,277. Annually it is to pay a sum increasing from \$12,500,000 in 1931 to \$15,000,000 in 1936, with additional payments over a period of 45 years.¹

Claims Commissions. — Because of property losses through revolutions, the enforcement of radical laws, banditry, or otherwise, Americans have claims against the Mexican government aggregating almost half a billion dollars. Mexicans have claims against the United States government for a much smaller amount. Therefore two claims commissions have been established: one to settle claims for losses or damages suffered by American citizens through revolutionary acts from 1910 to 1920, and the other to settle all other just claims against Mexico by American citizens or against the United States by Mexican citizens. These commissions have not been very successful in coming to agreements, and even if Mexico should concede a large part of our claims, it would be unable to pay them in the near future.

The International Boundary Commission. — When the Rio Grande goes on a rampage, it carries part of the United States to Mexico and part of Mexico to the United States. If the shift is slight, the boundary remains in the middle of the river. But when the river deserts one bed for an entirely new bed and leaves a substantial acreage on the opposite side of the river, it may require the permanent boundary commission to decide

¹ As in case of former debt agreements, the ink was hardly dry before something happened to delay the execution of its terms. This time it was not a revolution. The Mexican government collects taxes in silver and pays the debt in gold; and in 1931 the price of silver dropped so decidedly that the exchange of silver for gold would have resulted in a loss of 18% for the Mexican government. Therefore the creditors agreed that the payments in silver might be deposited in Mexico City for a period not exceeding two years before payments are made, in the hope that the price of silver might rise to the advantage of Mexico.

which government shall collect the taxes. To avoid future trouble over the irrigable lands below El Paso the Commission, in 1930, recommended that an 88-mile channel be dug and protected by levees to replace the winding 154 miles of river. As we would profit most, it is recommended that we pay 88 per cent of the \$6,000,000 cost.

RECENT DEVELOPMENTS IN NICARAGUA

Political History. — The two political parties which are now competing for the control of Nicaragua have existed since colonial times. The *Conservatives* are led by prominent merchants and landed proprietors who form a sort of Creole aristocracy. The *Liberals* are led by a less wealthy professional class. Although the common people have the right to vote, democratic institutions in the American sense have never existed.

Nicaragua gained its independence from Spain in 1821, and from then until 1863 the country was rent with frequent civil wars and revolutions. Finally the Conservative party gained control and there was comparative peace until 1893. During that year the Liberals, under the leadership of José Santos Zelaya, overthrew the Conservative government and dominated the country until 1909.

Zelaya made some internal improvements but burdened the country with heavy foreign and domestic debts. He tried to become the "strong man" of Central America and attempted to show the Yankees where they belonged. The Conservatives were friendly to American interests, and in 1909, when they revolted against the Zelaya government, the United States intervened to protect American property in a manner which assisted the Conservatives. Zelaya was overthrown and was succeeded by Conservatives who were kept in power by a small force of American marines.

Financial Relations with the United States. — The revolution against Zelaya had thrown the country into financial chaos. The new government requested our Department of State to

obtain for Nicaragua a loan secured by a percentage of the customs revenues, and to send a commissioner to Nicaragua to arrange the necessary formalities. Through this commissioner a treaty was arranged which would have made Nicaragua a legal protectorate of the United States comparable to Cuba. The United States Senate rejected this treaty, but in anticipa-



CANE TRAIN ON SUGAR ESTATE IN NICARAGUA.

tion of such a treaty New York bankers had advanced money to the new government. Therefore, to insure the payment of these loans as well as previous loans made to the government by Americans and British, an American collector of customs was placed in Nicaragua through our State Department.

Military Intervention. — In 1912 the Liberals revolted and would have overthrown the Conservatives along with all that they had accomplished in coöperation with the United States, had not the United States intervened. The New York bankers had advanced money to the Nicaraguan government upon reasonable terms and upon the advice of the United States government, so our government felt under obligation to protect their interests.

The Nicaraguan Minister of Foreign Affairs requested the United States to land troops, and a number of foreign powers concurred in this request; and late in the summer of 1912 twenty-six hundred American marines were landed. After restoring order they were withdrawn, with the exception of a legation guard of about one hundred men who were stationed upon a hill in the capital with a war vessel in sight in the harbor.

A hundred marines were not many, but as a Nicaraguan gentleman expressed it, "When we see a hundred up there, we see a hundred thousand behind them, and then behind them a hundred million. So we know that we must not displease Uncle Sam." These marines remained in Nicaragua until 1925.

Treaty of 1916. — Because the United States Senate refused to make Nicaragua a formal protectorate, New York bankers were afraid to lend more money to the Nicaraguan government. Therefore, to obtain financial aid directly from the United States government, Nicaragua made a treaty with the United States which was ratified by the United States Senate in February, 1916. It contains the following provisions:

(1) Nicaragua grants the United States the exclusive right in perpetuity to build and operate an inter-oceanic canal through Nicaragua and the San Juan River or by any other route, forever free from taxation.

(2) Nicaragua gives the United States a 99-year lease of Great Corn and Little Corn islands and territory to be selected by the United States on the Bay of Fonseca for the use of a naval base.

(3) For these rights the United States paid Nicaragua \$3,000,000 to be used for Nicaragua's debts or other purposes approved by the contracting parties.

The Two Chamorros. — In 1916 the Conservatives nominated General Emiliano Chamorro, who was then the Nicaraguan minister in Washington. He was conveyed to Nicaragua in an American cruiser and was elected President. He sent his

uncle, Don Diego Chamorro, as minister to Washington; and in 1920, when General Chamorro's term of office was about to expire, he arranged that his uncle, Don Diego Chamorro, then both old and weak, be made his successor. The uncle was elected, and he sent the nephew back to Washington as minister. In 1923 the old man died in office and was succeeded by the vice-president. The next year General Chamorro was back in Nicaragua as an independent candidate for the presidency.

Election of 1924. — In 1924 the Nicaraguan Congress adopted a new election law written by Dr. H. W. Dodds, an American election expert; and upon the suggestion of the United States Government the Nicaraguan Government invited Dr. Dodds to assist in the installation of the new electoral plan.

During the summer the Conservative and Liberal parties agreed to a coalition whereby the Conservatives nominated Carlos Solorzano as president and the Liberals nominated Juan B. Sacasa as vice-president. The coalition ticket won by approximately 48,000 votes against 28,000 for Chamorro. This coalition government was recognized by the United States and the other Central American countries.

The Revolution of 1925. — The United States had announced its intention to withdraw the marines immediately after this election. But at the request of President Solorzano the hundred marines were allowed to remain until August 1, 1925, in order to give the new administration an opportunity to establish a constabulary.

In less than a month after the withdrawal of the marines there was a rebellion, in less than two months there was a revolution, and early in 1926 General Chamorro drove President Solorzano and Vice-President Sacasa out of the country and forced the Nicaraguan Congress to name him "First Designate" — the one entitled to executive power.

The government of the United States and the four Central American governments, in conformity with the policy not to accord recognition to Central American governments assuming

power by unconstitutional means, withheld formal recognition of this new Nicaraguan government.

The Counter Revolution of 1926. — As President Solorzano had been forced to resign before he was exiled, Juan B. Sacasa, the exiled vice-president, claimed that he was the legal president. He received the recognition of the Mexican government, and his followers resorted to arms to depose Chamorro.

In August, 1926, United States war vessels were dispatched to Nicaragua with the announced intention of protecting American and foreign lives and property. In October representatives of the United States met with agents of the contending parties and endeavored to restore peace, but the effort was unsuccessful. Chamorro, however, was obliged to turn the government over to a follower named Uriza. He convoked Congress, which elected Adolfo Diaz.¹ The United States recognized him, claiming that he had been constitutionally chosen, and assisted him with marines and credit.²

In a message to Congress on January 10, 1927, President Coolidge said that marines were landed in Nicaragua to protect American lives and property; because the British and Italian officials had requested American protection of their nationals; because Communists were attempting to organize Latin America against the United States; and to conserve the rights granted to the United States under the Bryan-Chamorro Treaty (1916) to construct an inter-oceanic canal through Nicaragua.³

¹ Diaz was in the employ of Americans when he was made vice-president in 1910. When President Estrada resigned in 1911, Diaz became president, and was supported by American marines.

² During 1926 and 1927 the United States sent about 6000 marines to Nicaragua and sold the Diaz government 3000 rifles, 200 machine guns, and 3,000,000 rounds of ammunition, all below cost and on the credit installment plan. In 1931 about 1500 marines remained in Nicaragua.

³ Between 1929 and 1931 Colonel Dan Sultan of the Army Engineer Corps, assisted by 275 army engineers and men, surveyed for the proposed Nicaraguan canal. He recommends a 173-mile route up the San Juan River and through Lake Nicaragua, attaining a height of 105 feet above sea level.

This route would be two days shorter than the present Panama route

The Stimson Agreement. — In 1927 President Coolidge sent Henry L. Stimson to Nicaragua to bring about a settlement between the warring factions. He succeeded. All except a small band under a half-outlaw named Sandino laid down their arms with an agreement that the United States would supervise an election in November, 1928. José Moncada, the Liberal candidate, was elected president.¹ This election and the congressional election of 1930 were conducted by marines. It is the intention of the United States government to withdraw all marines after the election of 1932. This is in conformity with the Hoover policy of allowing the Latin-American protectorates to steer their own ships of state. But before leaving, a native constabulary will have been trained by our marines.

OUR CONTROL IN HAITI

Decadence. — The Negroes of Haiti gained their independence from France during the French Revolution, and until 1899 whites could not become citizens. During the wars for independence and the subsequent revolutions, many of the rich old mansions were destroyed and the plantations fell into decay. Coffee and sugar cane grew wild, but the roads became so overgrown that little could be carried to the markets. Of the twenty-five presidents of the "Republic of Haiti" preceding the American intervention in 1915, only one lived out his term, retired, and died a natural death in his country.

Concessions. — In 1910, during the presidency of Antoine Simon, sixty-five million francs were borrowed by the government, thirty millions of which were dissipated in a shameful manner. In the same year a railroad concession which guar-

between the Eastern and Western coasts of the United States. Colonel Sultan estimates the cost at \$750,000,000. He thinks the actual construction could be completed in ten years; but preliminary arrangements, including treaties with Nicaragua and Costa Rica, would probably require five more years.

¹ At this election each voter was required to press his thumb to a pad of indelible ink to make sure that nobody voted twice.

anted six per cent on the investment was granted to an American concession seeker. The road was never finished and the venture proved to be a financial failure. In 1914 the Haitian government refused to pay the interest because the road had not been completed.

President Simon also granted a concession to a foreign syndicate¹ to form the National Bank of Haiti. This bank was designated as the exclusive banking agency of the government and was given the monopoly of note issue for fifty years.

In 1914 the government was financially embarrassed and could not get the consent of the National Bank of Haiti to inflate the currency. The government therefore endeavored to get the gold reserve of the bank, and it became necessary to send \$500,000 by an American warship to the National City Bank of New York for safe keeping.

In an effort to solve Haiti's financial problem the United States government endeavored to induce the Haitian government to grant it control over its customs. The Haitians firmly refused.

Massacre of 1915. — At this time the presidency was occupied by the cruel dictator, Guillaume Sam, a pure African. To forestall a revolution against himself, he imprisoned some two hundred members of the best families of Haiti who belonged to opposing factions. Friends of the imprisoned persons attacked the palace of Sam, and he sought refuge in the French legation. Thereupon the commandant of the national prison ordered a wholesale execution of all prisoners — men and women. His soldiers used guns until all their ammunition was exhausted, and then chopped up the remaining victims with axes. Two bleeding survivors of the massacre escaped to Port-au-Prince. The populace rose en masse, destroyed the palace, besieged the French legation, dragged President Sam out, killed and dismembered him, and then paraded through the streets with portions of his body on poles.

¹ Banque de l'Union Parisienne, National City Bank of New York, and three German-American banking firms.

American Intervention. — As a result of this anarchy in Haiti, bands of robbers were stealing and burning without restraint. To put an end to this outlawry, to keep Europeans from intervening in violation of our Monroe Doctrine, and to protect European and American capital, marines were landed in July, 1915, and the country was put under martial law.

The Treaty of 1916. — During the next ten months a new Congress and President of Haiti were elected under the protection of our marines. We then insisted upon their ratifying a treaty which gave us control of the finances of the country. This treaty became effective May 3, 1916. It contains the following provisions:

(1) The following American advisers are nominated by the President of the United States and appointed by the President of Haiti: financial adviser, receiver-general of customs, chief engineer of public works, chief engineer of sanitary service, and chief of constabulary.

(2) The United States agreed to create a local constabulary with American marines as officers until natives could be trained.

(3) The United States guaranteed an independent staple government which would protect life, liberty, and property.

(4) Haiti agreed not to alienate any territory to any foreign power.

(5) Haiti agreed not to increase her debt without the consent of the President of the United States.

(6) The United States promised to aid the Haitian government in the development of its agricultural, mineral, and commercial resources.

(7) The treaty was to remain in force ten years, and for another ten years if its object was not accomplished within this period to the satisfaction of either party.

At the end of the first ten-year period the United States did not consider the object of this treaty to have been accomplished; therefore the treaty remains effective until May 3, 1936. Moreover, American bond holders are still further protected by the

1919 Agreement that an American shall collect the customs of the country until the bonds are finally paid off.

The Constitution of 1917. — In 1917 the Haitian Congress refused to ratify a new constitution which had just been drafted by Franklin D. Roosevelt, then assistant-secretary of the Navy.



FIRST STANDARD AGRICULTURAL SCHOOL IN HAITI.

This school was built in 1925 and fifty or more of them were built under the American régime.

This constitution gave foreigners the right to own land, and the Haitians feared that the ownership of land by foreigners would pave the way for economic enslavement.

The President then submitted the constitution to a vote of the people. Because most of the people are illiterate, they voted by white and blue slips, the white signifying a vote for the constitution. The results were 98,294 for the constitution and 769 against it.

Because the Haitian Congress refused to coöperate and to ratify this constitution, the President of Haiti, under pressure of American military authorities, dissolved it and there was no Congress until President Borno was peacefully ousted in 1930.

The Borno Régime. — The new constitution directed the President of Haiti to determine when the first Congress should be elected, but to the end of Borno's régime (1930) there was no Congress. The laws were made by the President and the Council of State appointed by the President for indefinite terms.



MARINE CORPS OFFICER INSPECTING THE GENDARMERIE D'HAÏTI.

A regiment of American marines was quartered behind the President's palace, and the American High Commissioner greatly influenced the President in his official actions. The American Receiver of Customs and Financial Adviser collected the customs, drew up the budget, and controlled expenditures.

The Haitian constabulary, a combined army and police force, was mainly officered by American marine officers or privates; and these marines had almost unlimited powers in the districts where they served.

The Government of Haiti Being Returned to the Haitians. — Because of several uprisings against the American régime in Haiti, President Hoover sent a commission to Haiti, headed by

Cameron Forbes, to investigate when and how we are to get out of Haiti.¹ They made their report to the President in 1930.

This commission set in motion a series of events which have resulted in the following :

(1) President Borno resigned in favor of Eugene Roy as Provisional President because the latter had the confidence of the contending factions.

(2) The Provisional President called an election which chose a Congress.

(3) The Congress elected Mr. Stenio Vincent as President of Haiti.

(4) General John H. Russell resigned as High Commissioner of Haiti, to be replaced by a Minister with a Military Attaché.

(5) Dana G. Munro was appointed Minister to Haiti to take over the supervision formerly intrusted to General Russell.

(6) The American marines have turned over the policing of the country to the native constabulary which they had trained.

(7) A small force of American marines remain in Haiti, but on election day they remained in barracks.

(8) An effort is now made to appoint Americans free from racial prejudice for the Haitian service.

(9) Haitians are gradually replacing Americans in responsible positions.

(10) The American Minister is working towards less intervention by the United States and ultimate withdrawal as protector of Haiti.

¹ President Hoover also sent a commission to investigate the educational conditions in Haiti, headed by Dr. R. R. Moton, Principal of the Tuskegee Institute. In 1930 this commission reported that the Haitians over-emphasized the cultural subjects and the Americans the applied sciences; that the two should coöperate in a happy medium, and the educational system should be unified; that the Americans in the educational system should be paid by the United States until they gradually withdraw in favor of Haitians; that the United States should appropriate money for education in Haiti, or encourage American philanthropists to do so, or float a loan for them at a low rate of interest.

What the Military Régime Accomplished in Haiti. — While the military occupation of Haiti resulted in Haiti's loss of sovereignty, and of liberty which had degenerated into anarchy, peace was established throughout the country. The peasant in his hut and the traveler on the road were secure alike from governmental oppressors and from bandits as they had not been for many a year. The taxes were honestly collected and the debt was being paid. By the elimination of revolutions citizens were freed for industry, and a system of highways was built. The cities for the first time in Haitian history were well policed, clean, and sanitary.

THE UNITED STATES AND THE WAR DEBTS

Public Debts Owed to the United States. — On July 1, 1931, eighteen foreign governments were indebted to the Government of the United States for the following amounts :

COUNTRY	TOTAL INDEBTEDNESS (PAYMENTS ON PRINCIPAL DEDUCTED)	PRINCIPAL PAID TO DATE	INTEREST PAID TO DATE
Armenia . . .	\$ 11,959,918	none	none
Austria . . .	23,752,217	862,668	none
Belgium . . .	400,680,000	19,157,630	33,033,643
Czechoslovakia .	167,071,023	18,000,000	304,178
Estonia . . .	16,466,013	none	1,248,432
Finland . . .	8,604,000	396,000	2,558,685
France . . .	3,863,650,000	226,039,588	260,036,303
Great Britain .	4,398,000,000	404,181,642	1,507,616,657
Greece . . .	31,516,000	983,923	2,108,013
Hungary . . .	1,908,560	73,995	393,471
Italy . . .	2,004,900,000	37,464,319	60,120,103
Latvia . . .	6,888,664	none	634,167
Lithuania . . .	6,197,682	234,783	894,797
Nicaragua . .	290,628	141,221	27,562
Poland . . .	206,057,000	1,287,297	21,359,000
Rumania . . .	63,860,560	4,498,632	263,314
Russia . . .	192,601,297	none	8,748,879
Yugoslavia . .	61,625,000	1,952,713	636,059
	\$11,466,028,562	715,274,411	1,899,983,263

How These Debts Were Created. — Before the United States entered the World War Great Britain had loaned large sums of money to the Allies, and American bankers had floated smaller loans in American markets; but after the United States entered, our government made loans to the Allies aggregating \$10,338,000,000. Two thirds of this amount was loaned before the armistice, principally for the purchase of war supplies in the United States; and the remaining third was loaned after the armistice for the purchase of our surplus war material in Europe, and relief supplies bought in the United States. The small loans to Austria and Hungary were for food, and those to Nicaragua for surplus war materials purchased from our government from time to time.

How These Debts Were Funded. — To cover these debts the borrowing governments gave to the United States government ordinary commercial notes bearing interest for the most part at the rate of 5 per cent. For several years after the war the debtor nations were unable to meet these obligations, and there was a hope on the part of some of them that the pre-armistice borrowings might be cancelled. As the debtors were unable to pay these notes according to their terms, it became necessary to make adjustments so that definite settlements could be arranged. Therefore Congress created a World War Foreign Debt Commission in 1922 to undertake the negotiation of funding agreements.

The Commission negotiated agreements with thirteen of the debtor countries¹ but the French government did not ratify the debt agreement until 1929. Four of the debtor nations have not yet entered into funding agreements with the United States. Armenia, except in Russia, has ceased to exist, the country having been reabsorbed by Turkey; Russia has repudiated all foreign debts; by joint resolution Congress extended the time of payment of the principal and interest of Austria's

¹ Belgium, Czechoslovakia, Estonia, Finland, France, Great Britain, Hungary, Italy, Latvia, Lithuania, Poland, Rumania, and Yugoslavia.

debt until 1943; and Nicaragua is consistently making payments. In December, 1927, Greece settled with the Treasury Department and borrowed \$12,000,000 more for refugee work.

The Debt-Funding Commission formulated the principle of "capacity to pay" as the basis of negotiating debt-funding agreements. It was therefore decided that the payment of these debts would have to be spread over a period of 62 years,¹ and that the rate of interest would have to be reduced. The original obligations called for a 5 per cent rate of interest, but when the funding occurred the *unpaid* interest was calculated at rates varying from 3 to $4\frac{1}{4}$ per cent. But the future average interest rate over the 62-year period varies from 3.3 per cent for Great Britain to 0.4 per cent for Italy.²

Many of these debtor nations still feel that the United States should cancel their pre-armistice debts because the money was used for defeating a common enemy, and the European press has often pictured "Uncle Sam" as a Shylock. On the other hand, our Treasury Department feels that we have been very lenient in giving these countries rates of interest less than the rate at which our government borrowed the money, and, with the exception of Great Britain, much less than the rate they now have to pay in the open market.

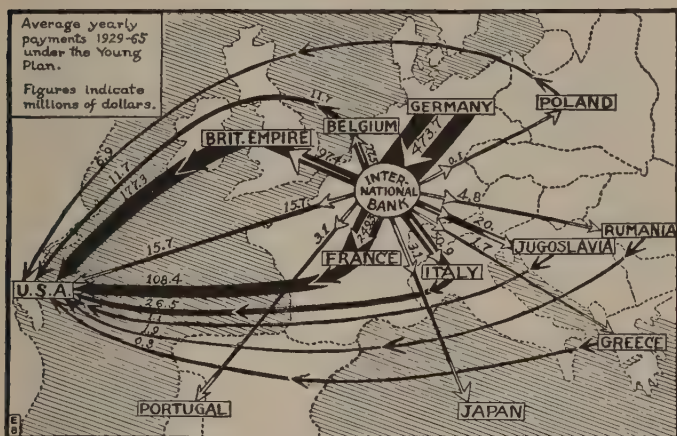
German Obligations under the Dawes Plan. — The Reparation Commission which was appointed by the Versailles Peace

¹ The total average annual payments under the debt-funding agreements with the thirteen countries are as follows:

First 10 years . . .	\$233,000,000	Fourth 10 years . . .	\$377,000,000
Second 10 years . . .	347,000,000	Fifth 10 years . . .	393,000,000
Third 10 years . . .	365,000,000	Last 12 years . . .	414,000,000

² Great Britain	3.3%	Lithuania	3.3%
Poland	3.3	Latvia	3.3
Czechoslovakia	3.3	Belgium	1.8
Rumania	3.3	France	1.6
Estonia	3.3	Yugoslavia	1.0
Finland	3.3	Italy	0.4
Hungary	3.3		

Conference fixed the total amount of German reparation and indemnity obligations at approximately \$32,000,000,000. Germany failed to meet the schedule of payments imposed by the Reparation Commission, and the assistance of experts was sought. Mr. Charles G. Dawes, our first Director of the Budget, was made chairman of this committee of experts to determine how much reparation Germany would be able to pay. This



Courtesy Foreign Policy Association.

THE YOUNG PLAN AND PAYMENTS TO THE UNITED STATES.

committee provided for the payment of an increasing amount each year until it reached \$600,000,000 in 1929. Approximately this amount was to be paid each year for an indefinite period. Germany insisted upon a revision of the Dawes Plan.

German Obligations under the Young Plan. — In 1929 representatives of the interested nations met in Paris under the chairmanship of Owen D. Young of the United States. The Young Plan was agreed upon and submitted to the governments for ratification. The outstanding provisions are:

(1) The present cash value of the German reparation payments yet to be made is about \$9,000,000,000. It is to be

paid on the installment plan over a period of 58 years with 5 per cent interest.¹

(2) The average annual payment by Germany during the first 37 years is about \$492,000,000. It is believed that the portion of the profits from the new Bank for International Settlements, which is to accumulate for the payment of German reparations, will supply the payments for the last 21 years of the 58 years.

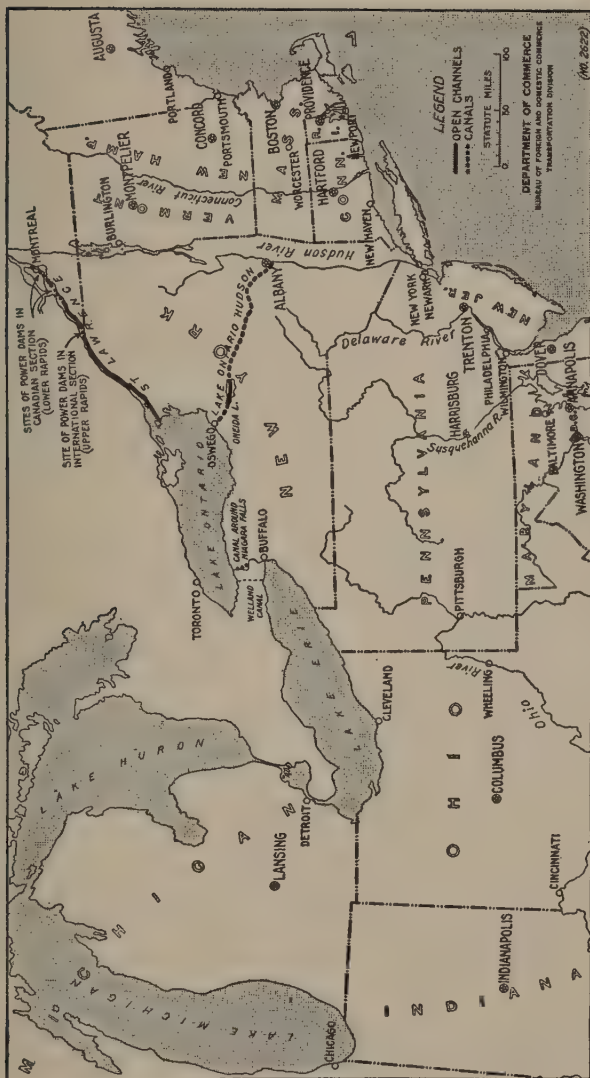
(3) The chart (page 709) shows the distribution among the Allies.

(4) The indemnity transfers of money and goods are made by the Bank for International Settlements at Basle — a bank with \$100,000,000 capital supplied by the central banks of the European Allies and by private bankers of the United States. The control of the bank is in the hands of a council including one member from the national bank of each of the interested countries and one representing the American private bankers.

GREAT LAKES TO ATLANTIC OCEAN WATERWAYS

St. Lawrence Waterway Project. — The increasing trade between North America and Europe has made a vital question of the Great Lakes-Atlantic waterway. A Canadian-American Joint Commission was created to investigate the advisability of deepening the St. Lawrence waterway. This commission strongly indorsed the idea; and in 1924 President Coolidge appointed the Hoover Commission to confer with the National Advisory Committee of Canada. These bodies coöperated in creating the Joint Board, composed of six engineers, to determine the cost and engineering feasibility of the project. For this survey Congress appropriated \$250,000. In 1926 the

¹ To prevent the almost sure bankruptcy of the German government in 1931, President Hoover persuaded the creditor nations to postpone the reparation payments due between July 1, 1931, and June 30, 1932 — these deferred payments with interest to be made in ten annual installments beginning July 1, 1933.



GREAT LAKES-TO-OCEAN WATERWAYS.

Hoover Commission reported the project feasible from the engineering standpoint; and in 1927 the Commerce Department issued an elaborate report showing why it is economically advisable.

These reports include the following facts:

(1) The project would benefit 40,000,000 people, especially the wheat growers of the Middle West who now pay from 6 to 18 cents more freight on a bushel of wheat to the Atlantic Coast than before the World War. As similar increases have not taken place in countries which have better access to the seaboard, American farmers must pay this increase because they compete in foreign markets.

(2) Hydroelectric energy to the extent of 5,000,000 installed horsepower can be developed in the St. Lawrence. Of this 2,250,000 lies in the international section between Canada and the United States.

(3) If the portion of this power which could now be commercially disposed of is developed by the two governments, or by private capital, the additional cost of constructing a canal for vessels of 25 feet draft would not exceed \$148,000,000 plus interest during the ten-year period of construction.

(4) It has not been determined how the cost of the project should be shared by the two countries.

Lake Ontario-Hudson Route. — By using the new Welland Canal (30 feet draft) which connects Lake Erie and Lake Ontario, and reconstructing the Erie Canal from Lake Ontario to the Hudson River, a canal to take ships of 25 feet draft could be constructed from Lake Ontario to New York City for about \$506,000,000. The United States has treaty protection in equal treatment in the use of the Welland Canal.

An All-American Route could be constructed by using the proposed Ontario-Hudson route and constructing a new ship canal around the New York side of Niagara Falls. Such a canal would duplicate the Welland Canal. The All-American route would cost about \$631,000,000.

	ST. LAWRENCE	ONTARIO-HUDSON	ALL-AMERICAN
Cost of construction . .	\$148,000,000	\$506,000,000	\$631,000,000
Maintenance per ton carried including $4\frac{1}{2}\%$ on investment	\$0.43	\$1.96	\$2.06
Freight cost per bushel of wheat Chicago to Liverpool ¹ . . . .	.09 $\frac{1}{2}$	.11	.11
Number of locks	9	20	20 plus
Number of bridges . . .	8	54	54 plus

KELLOGG-BRIAND TREATY TO OUTLAW WAR

Introduction. — Ignorance, superstition, fear, hate, greed, and other faulty human conditions and emotions are fundamental causes of wars. Hence education to inform men, to quiet their passions, to develop their sense of coöperative sympathy, and to develop love and an international mind, will create a desire for peace. But changing men's hearts is a slow process. Meanwhile, after the horrors of the last war fade from our memories, the calamity of another war may overtake us before the human race is fully converted to a life of peace. War might come again and wreck the very educational process in which we are engaged before it has time to attain its goal.

War Outlawed. — While human nature cannot be changed by making a new law, yet when the influential majority has risen to a will for peace, they can declare peace instead of declaring war. Aristide Briand, the French Minister of Foreign Affairs, and Frank Kellogg, then American Secretary of State, developed a will for peace. Therefore, these officials brought to Paris representatives of fifteen world powers,² who, on

¹ Present minimum cost 17.6 cents.

² Germany, United States, Belgium, France, Great Britain, Canada, Australia, New Zealand, South Africa, Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia.

August 27, 1928, signed the following Kellogg-Briand Treaty to renounce war :¹

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversy, and renounce it as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present treaty shall be ratified by the High Contracting Parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

The treaty is silent as to what the "pacific means" shall be. Presumably the pacific means are arbitration or judicial decision; that is, either to submit a dispute to impartial persons selected after the dispute has arisen, or to submit it to a court. The United States has not yet joined the Permanent Court of International Justice, on which ex-Secretary of State Kellogg is a judge; but nations that are not members of the Court are permitted to submit cases to it. International law, according to which international disputes should be settled, is just in its formative period, but progress is being made towards an international code of law.

¹ The other nations of the world have been invited to sign this treaty, and most of them have either done so or signified their intention to do so.

Steps towards the Limitation of Naval Armament. — In 1922, under the influence of Charles E. Hughes, then Secretary of State, the five leading naval powers at the Washington Conference on the Limitation of Armament agreed to limit the number of war vessels over 10,000 tons (called "Capital Ships") and to limit the size of these ships to 35,000 tons.

In 1927 Great Britain, Japan, and the United States sent delegations to Geneva for the purpose of limiting war craft of 10,000 tons or less; but unfortunately this conference was not successful.

Then a competitive cruiser-building program developed, and in 1928 the United States Congress authorized the building of fifteen cruisers — five the first year.¹ The Act gave the Presi-

¹ Subsequently, in 1929, President Hoover denounced a big navy lobbyist who worked against naval limitation at the Geneva Conference. The following quotation from World News is self-explanatory:

"What threw the spotlight on such doings was the filing of a suit by William B. Shearer, in New York City, August 21, against the Bethlehem Shipbuilding Corporation, the Newport News Shipbuilding Co., and the American Brown Boveri Co. (successor to Cramps' shipyards), for \$58,885 for expenses and \$250,000 for services rendered by him to the companies from December, 1926, to March, 1929. Mr. Shearer says he was paid \$51,000; the remainder is still due him.

"Mr. Shearer is a one-time electrician, who served as a gunner's mate in the Spanish-American War, later managing a theater in London. He turned up in Washington in 1919 as a lobbyist for higher pay for the Army and Navy. According to his own account, his first activity on behalf of a larger Navy came as a request of high naval officers who knew his 'high batting average' in 1919.

"In 1924, Shearer was the 'taxpayer' who brought suit to restrain the Government from destroying the battleship *Washington*, under the terms of the Washington arms treaty. William Randolph Hearst, he says, financed that venture. From that time on, he was more and more seen in the capital.

"When there was talk of the weakness of our Navy, it was Shearer who 'leaked' certain alleged naval secrets: that an American spy on British warships, in maneuvers, had observed methods whereby British guns greatly outranged our own, and that the paper maneuvers of the Naval War College, at Newport, had demonstrated that the British fleet could destroy ours in 80 minutes.

"When American and other naval experts went to Geneva, in 1927, to discuss a naval limitation agreement, Mr. Shearer, too, appeared at Geneva

dent power to suspend the building of these ships in the event of an international agreement on limitation of naval armament, and President Hoover suspended the building of three of the first five because of the agreement with Premier MacDonald that Great Britain would consent to a parity of naval strength with the United States.¹

In 1929 when Mr. Hoover became President of the United States and Mr. MacDonald became Prime Minister of Great Britain, it was fair weather for a naval limitation conference. Premier MacDonald visited the United States and a conference was agreed upon to meet at London in January, 1930, to include France, Italy, and Japan, as well as Great Britain and the United States.

The London Naval Conference resulted in slight reduction of the British, Japanese, and United States navies, and a naval parity between Great Britain and the United States. France and Italy did not enter the agreement because Italy insisted upon naval parity with France. (See page 252.)

Steps towards Membership in the Permanent Court of International Justice. — When two of our forty-eight States have a dispute, they settle it in the United States Supreme Court. They never think of settling it by war. An international world court has long been the dream of jurists; and in 1921 the League

as an unofficial observer, well-armed with naval statistics. The conference failed, and Shearer counted his visit to Geneva a success.

"Shearer's latest victory was at Washington (1928) when Congress passed the 15-cruiser bill. He handed out booklets abusing the British and showing the inferiority of the U. S. Navy. During his lobbying he made the assertion: 'My fight is for national defense. . . . I expect no reward except the consciousness that I am helping my country.' Skeptical Congressmen may have doubted his pure patriotism, but they had no way of confirming their suspicions.

"In fairness to the shipbuilding companies, it should be said that their spokesmen have repudiated Shearer's work as a propagandist. He was hired 'only as an observer to furnish information.' His employment was 'terminated promptly' (according to President Grace, of the Bethlehem Company) when it was learned that Shearer was an active propagandist."

¹ Premier MacDonald also had work stopped on certain British vessels.

of Nations set up the permanent Court of International Justice, which holds regular annual sessions at The Hague in the beautiful courthouse erected through the generosity of Andrew Carnegie.

This world court consists of fifteen judges and four deputy judges elected by the League of Nations. They are chosen for terms of nine years and are paid by the League of Nations. By special agreement some countries have arranged to refer to this court all of their disputes with one another; some have decided to submit certain disputes; some have consented to submit certain kinds of legal disputes, which they may have with any country; but none of the great powers has agreed to submit all disputes.

The court gives advisory opinions upon the request of the League of Nations. These opinions are not considered binding but are in practice accepted.

In 1926 the United States Senate ratified a treaty for admission to the world court, but on the following conditions:

- (1) that membership does not involve the United States in legal relationship to the League of Nations;

- (2) that the United States shall take part in electing the judges;

- (3) that the United States shall pay its share of the expenses;

- (4) that the statute creating the court shall not be amended without the consent of the United States;

- (5) that the court shall not, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest;

- (6) that the United States shall not become a member until each member of the court accepts these reservations;

- (7) that the United States may withdraw from the court at any time; and

- (8) that the United States shall submit to the court only such disputes as it wishes to submit.

All of these reservations were acceptable to the members of the court except the fifth. Regarding this fifth reservation, it was feared by several members of the League that slow action on the part of the United States might so delay the consideration of an advisory opinion by the court as to make it worthless when rendered. Therefore, as all members of the court did not agree to the fifth reservation the United States did not join the court.

The members of the court have proposed the following adjustment of the fifth reservation: If the council or the Assembly of the League of Nations is about to ask the court for an advisory opinion, the United States is to be notified and given an opportunity to offer its objections. If no agreement can be reached and the United States is not prepared to forego its objections, it can withdraw from the court without any inference of unfriendliness.

President Hoover has urged the United States Senate to ratify an agreement which would make the United States a member of the court in accordance with the reservations and understandings listed above, but there is a strong faction in the Senate which considers joining the World Court to be a first step toward membership in the League of Nations.

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QUESTIONS ON THE TEXT

1. What objection has the United States to Mexico's method of restoring land to the peons?

2. Has the restoration of land to Mexican Indians proved a success?

3. Does the United States object to Mexico's prohibition against American citizens' purchasing land on the Mexican side of the border?

4. What objection have we to their treatment of land already owned by American citizens?

5. What provision of the 1925 law does the United States consider unjust?

6. What agreement has Mexico entered regarding her foreign debts?

7. What duties are performed by the Mexican-United States claims commission?

8. What boundary problems between the United States and Mexico need to be settled?

9. Why did the United States send marines to Nicaragua in 1912? In 1926?

10. What are the provisions of the 1916 Treaty between Nicaragua and the United States?

11. Who was Juan B. Sacasa?

12. Why did President Coolidge assist the Diaz régime?

13. Who is now the President of Nicaragua? Is he friendly to the United States?

14. Why did the United States intervene in Haiti?

15. What are the provisions of the Treaty of 1916 between Haiti and the United States?

16. How long does the United States propose to retain her control in Haiti?

17. Why did the Haitian Congress refuse to ratify the Constitution in 1917? How was it finally ratified?

18. Explain how the government of Haiti is being returned to the Haitians.

19. What improvements have been made in Haiti under the American occupation?

20. How were the public debts owed to the United States created?

21. Upon what terms were these debts funded?

22. How much is Germany expected to pay the Allies annually?

23. What is the Bank for International Settlements?

24. Explain the relative advantages claimed for the different proposed routes between the Great Lakes and the Atlantic Ocean.

720 FOREIGN PROBLEMS OF THE UNITED STATES

25. What are the provisions of the Kellogg-Briand Treaty to outlaw war?

26. Explain the steps taken in recent years to limit naval competition.

PROBLEMS FOR DISCUSSION

1. In the United States a person cannot be deprived of his life, liberty, or property without due process of law. Practically, this means that the law must be considered reasonable by a majority of the judges of the Supreme Court of the United States, and that he must have a fair hearing in court. Do you think we should insist upon this same standard in Mexico, or should we demand only such rights as Mexican citizens themselves enjoy?

2. Should we protect American citizens in Mexico who have lived there long enough to become Mexican citizens?

3. Should we allow the Nicaraguans to have a series of revolutions in their own way and be ruled by successive dictators, or should we supervise their elections and support the majority party with a hundred marines and with advice?

4. Do you favor starting a Nicaraguan canal at once or as soon as the Nicaraguan government is favorable; or would you allow the opportunity to drift and take the chance that obstacles will not be placed in the way at some future time?

5. Some senators favor additional locks in the Panama Canal, which would cost about \$100,000,000, while others favor the construction of the Nicaraguan canal for commercial and military security against earthquakes and enemy bombs. The Nicaraguan canal would probably cost about \$750,000,000. Do you consider the extra commercial and military security worth the difference in price?

6. The United States used such force as was necessary to bring peace and order in Haiti. Do you think the greatest degree of happiness will come to the world as a whole if the more advanced nations force their civilization upon the backward nations?

7. Do you think that civilization can most effectively be carried to backward countries by force or by moral and scientific education?

8. Do you think there are cases where an educational program is possible only when supported by force?

9. Do you think the United States is justified in governing backward nations through force without adding education?

10. It is doubtful whether Germany can pay in money its reparations to the Allies or whether the Allies can pay their reparations to the United States, but because there are 20 million unemployed people in

Europe, these countries could pay their debts in goods or services. Do you favor accepting payment in goods or services, or would you rather cancel a portion of the debt?

11. Would you favor using a portion of this debt money to endow a great health research institution in each of the debtor countries?

12. We have a protective tariff to protect American industry. Do you think American industry would suffer if we permitted European laborers to remove all of our grade crossings, build boulevards across the country, construct the Boulder Dam or the Nicaraguan Canal, or build American embassies or consulates?

13. The Ontario-Hudson River canal route to the Atlantic would be 625 miles longer than the St. Lawrence route to Northern Europe, but 1550 miles shorter to New York; and to South Atlantic points, from 540 to 1350 miles shorter; but the Hoover Commission says that these items are more than compensated for by better navigation and lower fixed charges on the St. Lawrence route. If you lived in New York City, which route would you "root" for? In Chicago? In the wheat belt?

14. Do you think the Kellogg-Briand treaty to outlaw war will attain its purpose if the United States does not help to develop the World Court? League of Nations?

APPENDIX I

CONSTITUTION OF THE UNITED STATES

(ANNOTATED)

PREAMBLE ¹

WE, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

LEGISLATIVE DEPARTMENT

Section 1. Two Houses

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. House of Representatives

1. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.²

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.³

¹ The Preamble is an introduction to the main subject, but is no part of it. It grants no powers, but assists in interpreting the various clauses that follow by indicating the intentions of the framers of the Constitution.

² "Electors" means voters.

³ The first woman representative, Miss Rankin, was elected from Montana in 1916.

2 CONSTITUTION OF THE UNITED STATES

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, *three-fifths of all other persons*.⁴ The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and, until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

Section 3. Senate

1. The Senate of the United States shall be composed of two Senators from each state [chosen by the legislature thereof]⁵ for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year; [and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies].⁵

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States,

⁴ The clause in italics is superseded by the Thirteenth and Fourteenth Amendments.

⁵ See Seventeenth Amendment.

who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.⁶

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section 4. Elections and Meetings of Congress

1. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof: but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.⁷

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5. Powers and Duties of the Houses

1. Each House shall be the judge of the elections, returns, and qualifications of its own members,⁸ and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day

⁶ "Two-thirds of the members present" must be at least two thirds of a quorum. There are now 96 senators; 49 is a quorum, hence 33 could convict.

⁷ In 1842 Congress provided that representatives should be elected from districts. In 1872 Congress provided that representatives should be elected on the Tuesday after the first Monday in November of every even year. Maine, the only exception to this rule, elects in the late summer, and its election is viewed as a political barometer.

⁸ This provision permits either House to exclude a member-elect by a majority vote. See pages 93 and 94 of the text.

to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6. Privileges of and Prohibitions upon Members

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace,⁹ be privileged from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same; and for any speech or debate in either House, they shall not be questioned in any other place.¹⁰

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;¹¹ and no person, holding any office under the United States, shall be a member of either House during his continuance in office.

⁹ *Treason* is defined in Art. III, Sec. 3.

Felony is defined on page 481 of the text.

Breach of the peace means any indictable offence less than treason or felony; hence the exemption from arrest is now of little importance.

¹⁰ The privilege of speech or debate does not extend to the outside publication of libelous matter spoken in Congress.

¹¹ After President Taft had selected Senator Knox to be Secretary of State it was discovered that during the latter's term as senator the salaries of cabinet officers had been increased. The objection was removed by an Act of Congress reducing the salary of the Secretary of State to its former figure.

Section 7. Revenue Bills: President's Veto

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it.¹² If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolution,¹³ or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

¹² Particular items of bills cannot be vetoed by the President, which fact is very unfortunate.

¹³ "Every . . . resolution . . . to which the concurrence of the Senate and the House of Representatives may be necessary," means every resolution which has the effect and force of law. There are two kinds of resolution, "joint" and "concurrent."

A joint resolution is, in general, the same as a bill with the exception of the different wording of the enacting clause; hence must be signed by the President, except that an amendment to the Constitution is proposed by a joint resolution which need not be signed by the President because it has not the effect of law; it is merely a proposal of a law to the States.

A concurrent resolution does not have the effect of law; it is merely an expression of the will of Congress on some particular subject, such as adjournment beyond three days, or an expression of sympathy, so does not need the approval of the President.

Section 8. Legislative Powers of Congress

The Congress shall have power :

1. To lay and collect taxes, duties, imposts, and excises,¹⁴ to pay the debts, and provide for the common defence and general welfare, of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States :

2. To borrow money on the credit of the United States :

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes :

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies,¹⁵ throughout the United States :

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures :

6. To provide for the punishment of counterfeiting the securities and current coin of the United States :

7. To establish post offices and post roads :¹⁶

8. To promote the progress of science and useful arts,¹⁷ by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries :

9. To constitute tribunals inferior to the Supreme Court :

10. To define and punish piracies and felonies, committed on the high seas, and offences against the law of nations :

¹⁴ For the meaning of these terms see page 124 of the text.

¹⁵ *Bankruptcy* means the inability of a person to pay all of his debts; but by turning over what property he has to be distributed proportionately among his creditors, he is released from his ordinary debts. Congress has not exercised its power over bankruptcy continuously. The present federal bankruptcy law was passed in 1898. According to this law there is voluntary and involuntary bankruptcy. Any debtor may become a voluntary bankrupt by filing a petition setting forth the fact that he is unable to pay his debts, and that he is willing to surrender all of his property to his creditors. Any person or corporation (except laborers, farmers, and national banks) indebted to the amount of \$1000 may be declared an involuntary bankrupt by a federal District Court if he in any way attempts to defraud his creditors, or if he admits, in writing, his inability to pay his debts and willingness to be adjudged a bankrupt.

¹⁶ "Post" is the French word *poste* meaning "mail"; and "post roads" mean mail routes, such as turnpikes, railroads, rivers, city streets, mountain paths, etc.

¹⁷ This clause refers to copyrights and patents. (See pages 64, 109, and notes on page 293.)

11. To declare war, grant letters of marque and reprisal,¹⁸ and make rules concerning captures on land and water :

12. To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years :

13. To provide and maintain a navy :

14. To make rules for the government and regulation of the land and naval forces :

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions :

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress :

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places, purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : — And

18. To make all laws which shall be necessary and proper¹⁹ for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section 9. Prohibitions upon the United States

1. The migration or importation of such persons, as any of the states, now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight ;

¹⁸ *Marque* is a French word meaning "boundary." "Reprisal" is from the French word *représaille*, which means retaliation. Hence, originally letters of "marque and reprisal" were licenses to cross the boundaries into the enemies' country, and capture or destroy goods. As used here it means a commission authorizing private citizens to fit out vessels (privateers) to capture or destroy in time of war. No privateers were commissioned either during the Civil War or during the Spanish-American War.

¹⁹ *Necessary* does not mean absolutely or indispensably necessary, but merely appropriate. This so-called *necessary and proper clause* is also known as the elastic clause, because it has made it possible for the courts to stretch the meaning of other clauses of the Constitution. See page 112 of the text.

but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* ²⁰ shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law,²¹ shall be passed.

4. No capitation, or other direct tax, shall be laid, unless in proportion to the *census* or enumeration hereinbefore directed to be taken.²²

5. No tax or duty shall be laid on articles exported from any state.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties, in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10. Prohibitions upon the States

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit;²³ make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely

²⁰ A writ of *habeas corpus* is directed by a judge to any person detaining another, demanding that person to produce the body of the person detained in order to determine whether such person is rightfully or wrongfully detained. Such person may be a prisoner in jail, an inmate of an insane asylum, or any person detained contrary to law.

²¹ A bill of attainder is a legislative act which inflicts punishment without a judicial trial. See Art. I, Sec. 10; see also Art. III, Sec. 3, Cl. 2.

For the meaning of *ex post facto* see page 345 of the text.

²² See Amendment XVI. Also see page 121 of the text.

²³ Bills of credit mean paper money.

necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No state shall, without the consent of Congress, lay any duty of tonnage,²⁴ keep troops, or ships of war, in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

EXECUTIVE DEPARTMENT: THE PRESIDENT AND VICE-PRESIDENT

Section 1. Term: Election: Qualifications: Salary: Oath of Office

1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives, to which the state may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit, under the United States, shall be appointed an Elector.

3. [The Electors shall meet in their respective states, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one, who have such ma-

²⁴ *Tonnage* is a vessel's internal cubical capacity in tons of one hundred cubic feet each. *Tonnage duties* are duties upon vessels in proportion to their capacity.

jority, and have an equal number of votes, then, the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.]²⁵

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.²⁶

5. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.²⁷

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive, within that period, any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear (or affirm), that I will faithfully execute the office of President of the United States, and will, to the best of my

²⁵ This paragraph has been superseded by Amendment XII.

²⁶ For the time of choosing electors see page 179 of the text.

²⁷ For the order of succession to the presidency see page 182 of the text.

ability, preserve, protect, and defend the Constitution of the United States.”

Section 2. President's Executive Powers

1. The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices,²⁸ and he shall have power to grant reprieves and pardons²⁹ for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law;³⁰ but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. President's Executive Powers (*continued*)

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

²⁸ This clause is the only authority for the President's Cabinet. There is no law of Congress that makes a department head a member of the Cabinet.

²⁹ For the pardoning power of the President see page 195 of the text.

³⁰ For the President's power to remove officers see page 188 of the text.

Section 4. Impeachment

The President, Vice-President, and all civil officers ³¹ of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.³²

ARTICLE III

JUDICIAL DEPARTMENT

Section 1. Courts: Terms of Office

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2. Jurisdiction

1. The judicial power shall extend to all cases, in law and equity,³³ arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction;³⁴ to controversies to which the United States shall be a party; to controversies between

³¹ *Civil officers* subject to impeachment include all officers of the United States who hold their appointments from the National government, high or low, whose duties are executive or judicial. Officers in the army or navy are not civil officers; neither are senators and representatives officers in this sense, nor can they be impeached, but this would be useless as either House can expel a member by a two-thirds vote.

³² A majority of the House of Representatives may impeach any civil officer of the United States whom they consider morally unfit for his position.

³³ For the meaning of *Equity* see note on page 478 of the text.

³⁴ *Admiralty jurisdiction* includes cases of prizes seized in time of war, and crimes, torts, etc. in time of peace, which occur on the high seas or navigable waters. *Maritime jurisdiction* has reference to contracts, claims, etc. that are connected with maritime operations — e.g., a contract on land for ship supplies. Admiralty jurisdiction is given by the locality of the act; maritime, by the character of the act.

two or more states, between a state and citizens of another state,³⁵ between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction.³⁶ In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury;³⁷ and such trial shall be held in the state where the said crimes shall have been committed;³⁸ but when not committed within any state the trial shall be at such place or places as the Congress may by law have directed.

Section 3. Treason

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.³⁹

³⁵ This clause was modified by the Eleventh Amendment.

³⁶ *Original jurisdiction* means the right of hearing and determining a case in the first instance. *Appellate jurisdiction* means the right to hear cases appealed from inferior courts.

³⁷ Jury trials are guaranteed in federal courts only. States could abolish jury trials if they should desire to do so.

³⁸ If a crime is committed on the sea the accused is tried by the United States District Court of the district where the prisoner is landed.

³⁹ During the Civil War an act was passed by Congress according to which all Confederate army or navy officers should forfeit their property. A certain piece of real estate in Virginia belonging to a Confederate naval officer, Forrest by name, was seized by the government and sold by legal proceedings to one Buntley. Buntley sold it to Bigelow. After the death of Forrest his son and rightful heir claimed it, and obtained it because treason cannot "work corruption of blood or forfeiture except during the life of the person attainted." See Art. I, Sec. 9, Cl. 3.

ARTICLE IV

RELATIONS OF STATES

Section 1. Public Records

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. Rights in One State of Citizens of Another

1. The citizens of each state shall be entitled to all privileges and immunities ⁴⁰ of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. No person held to service ⁴¹ or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New States: Territories

1. New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4. Protection Afforded to States by the Nation

The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against

⁴⁰ For *privileges and immunities* see note on Fourteenth Amendment.

⁴¹ *Person held to service* means slave; hence this clause has no significance now.

invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V

AMENDMENT

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

NATIONAL DEBTS: SUPREMACY OF NATIONAL LAW: OATH

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; ⁴² and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

⁴² If a federal law and treaty conflict, the courts accept the one most recently passed or ratified. A State law always yields to a treaty.

violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.⁴⁵

ARTICLE V ⁴³

CRIMINAL PROCEEDINGS

No person shall be held to answer for a capital, or otherwise infamous, crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war, or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law;⁴⁶ nor shall private property be taken for public use, without just compensation.⁴⁷

ARTICLE VI ⁴³CRIMINAL PROCEEDINGS (*continued*)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII ⁴³

JURY TRIAL IN CIVIL CASES

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no

⁴⁵ Congress cannot authorize the opening of first class mail except by a warrant issued by a court. The warrant must describe the mail to be opened.

⁴⁶ *Due process of law* means the law of the land, both written and unwritten (principles known to courts). In brief, *due process of law* is what the majority of the Supreme Court of the United States thinks the law of the land to be. See page 345 of the text.

⁴⁷ While this restriction applies only to the National government, the Fourteenth Amendment extends a portion of it to the States. See Amendment XIV, Sec. 1.

fact, tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII ⁴³

EXCESSIVE PUNISHMENTS

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX ⁴³

UNENUMERATED RIGHTS OF THE PEOPLE

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X ⁴³

POWERS RESERVED TO STATES

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI ⁴⁸

SUITS AGAINST STATES

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.⁴⁹

ARTICLE XII ⁵⁰

ELECTION OF PRESIDENT AND VICE-PRESIDENT

1. The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct

⁴⁸ This amendment was adopted in 1798.

⁴⁹ Officers of a State can be sued in some cases, which practically amounts to a suit against a State.

⁵⁰ This amendment was adopted in 1804 and supersedes Art. II, Sec. 1.

ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such a majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death, or other constitutional disability, of the President.

2. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators; a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII ⁵¹

SLAVERY

Section 1. Abolition of Slavery

Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

⁵¹ This amendment was adopted in 1865.

Section 2. Power of Congress

Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV ⁵²**CIVIL RIGHTS: APPORTIONMENT OF REPRESENTATIVES:
POLITICAL DISABILITIES: PUBLIC DEBT****Section 1. Civil Rights**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.⁵³ No state shall make or enforce any law which shall abridge the privileges or immunities of citizens⁵⁴ of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Apportionment of Representatives

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis

⁵² This amendment was adopted in 1868.

⁵³ By defining *citizenship* it is made clear that Negroes are citizens.

And subject to the jurisdiction thereof would exclude children of diplomatic representatives of a foreign state and children born to alien enemies in hostile occupation.

⁵⁴ *Privileges and immunities* have never been defined, but the courts have named many things which are and are not a denial of such privileges and immunities. For example, it is not a denial to prohibit marriage between whites and blacks; nor to provide separate schools for these races; nor to provide separate coaches for the races; nor to close business places during certain hours or on Sunday. It is a denial for a State to prohibit the employment of a particular nationality; or to pass an Act excluding persons from jury service because of their color or race.

of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. Political Disabilities

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Section 4. Public Debt

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. Powers of Congress

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV ⁵⁵

RIGHT OF SUFFRAGE

Section 1. Right of Negro to Vote

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

⁵⁵ This amendment was adopted in 1870. It was passed to secure Negro suffrage and to prevent Negroes from being disfranchised.

Section 2. Power of Congress

The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI ⁵⁶**INCOME TAX**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

ARTICLE XVII ⁵⁷**SENATE: ELECTION: VACANCIES**

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, That the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.⁵⁷

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII ⁵⁸**NATIONAL PROHIBITION****Section 1**

After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation

⁵⁶ Amendment XVI was adopted in 1913. It modifies Art. I, Sec. 9, Cl. 4.

⁵⁷ This amendment was adopted in 1913. It modifies Art. I, Sec. 3, Cls. 1 and 2.

⁵⁸ This amendment was adopted in 1919.

thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years of the date of the submission hereof to the States by Congress.

ARTICLE XIX⁵⁹

WOMAN SUFFRAGE

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

⁵⁹ This amendment was adopted in 1920.

APPENDIX II

GOVERNMENT PRINTING OFFICE

SUPERINTENDENT OF DOCUMENTS
WASHINGTON

PUBLIC DOCUMENTS

EVERY American should be interested in the publications that emanate from this Office, for public documents are the history of the country. While a small proportion of the issues might be obtained without cost through the friendship of public men, by far the larger part must be purchased, and nearly everyone interested in the literature of the United States prefers to pay for what he desires, rather than to be under obligation for small favors. Because of this it may be desirable to give the widest possible publicity to the fact that public documents can be purchased from the Superintendent of Documents, Government Printing Office, at a nominal cost. Price lists, indicating the subjects covered, may be obtained free, upon application in person or by mail. Among them are the following:¹

¹ Lists 1 to 9, 12 to 14, etc. are omitted because they are out of print.

The character of the price lists may be better understood by an illustration. Price List 45, entitled Public Roads Office, lists about one hundred reports, bulletins, and circulars, which sell for five or ten cents each. The following titles are typical: Construction of macadam roads; Sand-clay and earth roads in the Middle West; Dust prevention and road preservation; Bitumens and their essential constituents for road construction and maintenance; Examination and classification of rocks for road building, including physical properties of rocks with reference to their mineral composition and structure; Road-making material in Arkansas; Public roads of Alabama (and each of the other states); Laws of certain states relating to the use of wide tires; Notes on the use of convicts in connection with road building; Descriptive catalogue of road model exhibit; Proceedings of National Good Roads Convention; and Historical and technical papers on road building in the United States.

PRICE LISTS

- | | |
|---|---|
| <ul style="list-style-type: none"> 10. Laws of the United States. 11. Foods and Cooking. 15. Geological Survey. 16. Farmers' Bulletins. 18. Engineering and Surveying. 19. Army and Militia. 20. Public Lands. 21. Fishes. 24. Indians. 25. Transportation. 28. Finance. 31. Education. 32. Insular Possessions. 33. Labor, Insurance, and Cost of Living. 35. Geography and Explorations. 36. Government Periodicals. 37. Tariff, Income Tax, etc. 38. Animal Industry. 39. Birds and Wild Animals. 40. Chemistry. 41. Insects, including Bees. 42. Irrigation, Drainage, Water Power. 43. Forestry. 44. Plants. 45. Roads. 46. Soils and Fertilizers. 48. Weather, Astronomy, and Meteorology. 49. Proceedings of Congress. | <ul style="list-style-type: none"> 50. American History and Biography. 51. Health. 53. Maps. 54. Political Science, including Prohibition, District of Columbia, Suffrage, and Elections. 55. National Museum. 58. Mines. 59. Interstate Commerce Commission. 60. Alaska. 62. Commerce and Manufactures. 63. Navy, including Marine Corps and Coast Guard. 64. Standards of Weight and Measure, including Radiotelegraphy. 65. Foreign Relations. 67. Immigration, including Naturalization. 68. Farm Management. 69. Pacific States. 70. Census. 71. Children's Bureau. <p>Special lists on such topics as Radio, Home Owning, Accounting, etc., will also be furnished upon request.</p> |
|---|---|

The foregoing by no means embrace all the subjects treated in public documents. If you fail to see here what you want, send your inquiries to the —

SUPERINTENDENT OF DOCUMENTS,
GOVERNMENT PRINTING OFFICE,
WASHINGTON, D. C.

APPENDIX III

POPULATION OF THE UNITED STATES

RANK 1930	STATE	POPULATION 1930	POPULATION 1920	RANK 1920
1	New York	12,588,066	10,385,227	1
2	Pennsylvania	9,631,350	8,720,017	2
3	Illinois	7,630,654	6,485,280	3
4	Ohio	6,646,697	5,759,394	4
5	Texas	5,824,715	4,663,228	5
6	California	5,677,251	3,426,861	8
7	Michigan	4,842,325	3,668,412	7
8	Massachusetts	4,249,614	3,852,356	6
9	New Jersey	4,041,334	3,155,900	10
10	Missouri	3,629,367	3,404,055	9
11	Indiana	3,238,503	2,930,390	11
12	North Carolina	3,170,276	2,559,123	14
13	Wisconsin	2,939,006	2,632,067	13
14	Georgia	2,908,506	2,895,832	12
15	Alabama	2,646,248	2,348,174	18
16	Tennessee	2,616,556	2,337,885	19
17	Kentucky	2,614,589	2,416,630	15
18	Minnesota	2,563,953	2,387,125	17
19	Iowa	2,470,939	2,404,021	16
20	Virginia	2,421,851	2,309,187	20
21	Oklahoma	2,396,040	2,028,283	21
22	Louisiana	2,101,593	1,798,509	22
23	Mississippi	2,009,821	1,790,618	23
24	Kansas	1,880,999	1,769,257	24
25	Arkansas	1,854,482	1,752,204	25
26	South Carolina	1,738,765	1,683,724	26
27	West Virginia	1,729,205	1,463,701	27
28	Maryland	1,631,526	1,449,661	28
29	Connecticut	1,606,903	1,380,631	29
30	Washington	1,563,396	1,356,621	30
31	Florida	1,468,211	968,470	32
32	Nebraska	1,377,963	1,296,372	31
33	Colorado	1,035,791	939,629	33
34	Oregon	953,786	783,389	34
35	Maine	797,423	768,014	35
36	South Dakota	692,849	636,547	37
37	Rhode Island	687,497	604,397	38
38	North Dakota	680,845	646,872	36
39	Montana	537,606	548,889	39
40	Utah	507,847	449,396	40
41	District of Columbia	486,869	437,571	42
42	New Hampshire	465,293	443,083	41
43	Idaho	445,032	431,866	43
44	Arizona	435,573	334,162	46
45	New Mexico	423,317	360,350	44
46	Vermont	359,611	352,428	45
47	Delaware	238,380	223,003	47
48	Wyoming	225,565	194,402	48
49	Nevada	91,058	77,407	49
	Total	122,775,046	105,710,620	

POPULATION OF CITIES

(Final Figures)

RANK 1930	CITY	POPULATION 1930	POPULATION 1920	RANK 1920
1	New York, N. Y.	6,930,446	5,620,048	1
2	Chicago, Ill.	3,376,438	2,701,705	2
3	Philadelphia, Pa.	1,950,961	1,823,779	3
4	Detroit, Mich.	1,568,662	993,678	4
5	Los Angeles, Cal.	1,238,048	576,673	10
6	Cleveland, Ohio	900,429	796,841	5
7	St. Louis, Mo.	821,960	772,897	6
8	Baltimore, Md.	804,874	733,826	8
9	Boston, Mass.	781,188	748,060	7
10	Pittsburgh, Pa.	669,817	588,343	9
11	San Francisco, Cal.	634,394	508,410	11
12	Milwaukee, Wis.	578,249	457,147	13
13	Buffalo, N. Y.	573,076	506,775	12
14	Washington, D. C.	486,869	437,571	14
15	Minneapolis, Minn.	464,356	380,582	18
16	New Orleans, La.	458,762	387,408	17
17	Cincinnati, Ohio	451,160	401,247	16
18	Newark, N. J.	442,337	414,524	15
19	Kansas City, Mo.	399,746	324,640	19
20	Seattle, Wash.	365,583	315,312	20
21	Indianapolis, Ind.	364,161	314,194	21
22	Rochester, N. Y.	328,132	295,750	23
23	Jersey City, N. J.	316,715	298,103	22
24	Louisville, Ky.	307,745	234,891	29
25	Portland, Ore.	301,815	258,288	24
26	Houston, Tex.	292,352	138,276	45
27	Toledo, Ohio	290,718	243,164	26
28	Columbus, Ohio	290,564	237,031	28
29	Denver, Col.	287,861	256,491	25
30	Oakland, Cal.	284,063	216,261	31
31	St. Paul, Minn.	271,606	234,698	30
32	Atlanta, Ga.	270,366	200,616	33
33	Dallas, Tex.	260,475	158,976	42
34	Birmingham, Ala.	259,678	178,806	36
35	Akron, Ohio	255,040	208,435	32
36	Memphis, Tenn.	253,143	162,351	40
37	Providence, R. I.	252,981	237,595	27
38	San Antonio, Tex.	231,542	161,379	41
39	Omaha, Neb.	214,006	191,601	34
40	Syracuse, N. Y.	209,326	171,717	37
41	Dayton, Ohio	200,982	152,559	43
42	Worcester, Mass.	195,311	179,754	35
43	Oklahoma City, Okla.	185,389	91,258	80
44	Richmond, Va.	182,929	171,667	38
45	Youngstown, Ohio	170,002	132,358	50
46	Grand Rapids, Mich.	168,592	137,634	48
47	Hartford, Conn.	164,072	138,036	46
48	Fort Worth, Tex.	163,447	106,482	65
49	New Haven, Conn.	162,655	162,537	39
50	Flint, Mich.	156,492	91,599	77

POPULATION OF CITIES (*Continued*)

RANK 1930	CITY	POPULATION 1930	POPULATION 1920	RANK 1920
51	Nashville, Tenn.	153,866	118,342	56
52	Springfield, Mass.	149,900	129,614	51
53	San Diego, Cal.	147,995	74,683	93
54	Bridgeport, Conn.	146,716	143,555	44
55	Scranton, Pa.	143,433	137,783	47
56	Des Moines, Ia.	142,559	126,468	52
57	Long Beach, Cal.	142,032	55,593	128
58	Tulsa, Okla.	141,258	72,075	97
59	Salt Lake City, Utah	140,267	118,110	57
60	Paterson, N. J.	138,513	135,875	49
61	Yonkers, N. Y.	134,646	100,176	68
62	Norfolk, Va.	129,710	115,777	59
63	Jacksonville, Fla.	129,549	91,558	78
64	Albany, N. Y.	127,412	113,344	60
65	Trenton, N. J.	123,356	119,289	55
66	Kansas City, Kan.	121,857	101,177	67
67	Chattanooga, Tenn.	119,798	57,895	123
68	Camden, N. J.	118,700	116,309	58
69	Erie, Pa.	115,967	93,372	75
70	Spokane, Wash.	115,514	104,437	66
71	Fall River, Mass.	115,274	120,485	54
72	Fort Wayne, Ind.	114,946	86,549	83
73	Elizabeth, N. J.	114,589	95,682	72
74	Cambridge, Mass.	113,643	109,694	63
75	New Bedford, Mass.	112,597	121,217	53
76	Reading, Pa.	111,171	107,784	64
77	Wichita, Kan.	111,110	72,128	96
78	Miami, Fla.	110,637	29,549	255
79	Tacoma, Wash.	106,817	96,965	71
80	Wilmington, Del.	106,597	110,168	62
81	Knoxville, Tenn.	105,802	77,818	88
82	Peoria, Ill.	104,969	76,121	91
83	Canton, Ohio	104,906	87,091	82
84	South Bend, Ind.	104,193	70,983	100
85	Somerville, Mass.	103,908	93,091	76
86	El Paso, Tex.	102,421	77,560	89
87	Lynn, Mass.	102,320	99,148	69
88	Evansville, Ind.	102,249	85,264	84
89	Utica, N. Y.	101,740	94,156	74
90	Duluth, Minn.	101,463	98,917	70
91	Tampa, Fla.	101,161	51,608	137
92	Gary, Ind.	100,426	55,378	129
93	Lowell, Mass.	100,234	112,759	61
94	Waterbury, Conn.	99,902	91,410	79
95	Schenectady, N. Y.	95,692	88,723	81
96	Sacramento, Cal.	93,750	65,857	109
97	Allentown, Pa.	92,563	73,502	95
98	Bayonne, N. J.	88,979	76,754	90
99	Wilkes-Barre, Pa.	86,626	73,833	94
100	Rockford, Ill.	85,864	65,651	110

APPENDIX IV

APPORTIONMENT OF THE HOUSE OF REPRESENTATIVES

STATE	UNDER 1910 AND 1920 CENSUSES	SUBMITTED BY THE PRESIDENT DECEM- BER, 1930. (See page 88.)	GAIN	Loss
Alabama	10	9	0	1
Arizona	1	1	..	..
Arkansas	7	7	..	..
California	11	20	9	..
Colorado	4	4	..	..
Connecticut	5	6	1	..
Delaware	1	1	..	..
Florida	4	5	1	..
Georgia	12	10	..	2
Idaho	2	2	..	..
Illinois	27	27	..	..
Indiana	13	12	..	1
Iowa	11	9	..	2
Kansas	8	7	..	1
Kentucky	11	9	..	2
Louisiana	8	8	..	..
Maine	4	3	..	1
Maryland	6	6	..	..
Massachusetts	16	15	..	1
Michigan	13	17	4	..
Minnesota	10	9	..	1
Mississippi	8	7	..	1
Missouri	16	13	..	3
Montana	2	2	..	..
Nebraska	6	5	..	1
Nevada	1	1	..	..
N. Hampshire	2	2	..	..
New Jersey	12	14	2	..
New Mexico	1	1	..	..
New York	43	45	2	..
N. Carolina	10	11	1	..
N. Dakota	3	2	..	1
Ohio	22	24	2	..
Oklahoma	8	9	1	..
Oregon	3	3	..	..
Pennsylvania	36	34	..	2
Rhode Island	3	2	..	1
S. Carolina	7	6	..	1
South Dakota	3	2	..	1
Tennessee	10	9	..	1
Texas	18	21	3	..
Utah	2	2	..	..
Vermont	2	1	..	1
Virginia	10	9	..	1
Washington	5	6	1	..
W. Virginia	6	6
Wisconsin	11	10	..	1
Wyoming	1	1
Totals	435	435	27	27

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